# SELECT FISCAL YEAR 1996 BUDGET PROPOSALS AND POSSIBLE GSP EXTENSION

## **HEARING**

BEFORE THE

SUBCOMMITTEE ON TRADE

OF THE

# COMMITTEE ON WAYS AND MEANS HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTH CONGRESS

FIRST SESSION

**FEBRUARY 27, 1995** 

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## SELECT FISCAL YEAR 1996 BUDGET PROPOSALS AND POSSIBLE GSP EXTENSION

## MONDAY, FEBRUARY 27, 1995

HOUSE OF REPRESENTATIVES. COMMITTEE ON WAYS AND MEANS, SUBCOMMITTEE ON TRADE, Washington, D.C.

The subcommittee met, pursuant to call, at 2:05 p.m., in room 1100, Longworth House Office Building, Hon. Philip M. Crane (chairman of the subcommittee) presiding.

[The advisory announcing the hearing follows:]

## ADVISORY

## FROM THE COMMITTEE ON WAYS AND MEANS

#### SUBCOMMITTEE ON TRADE

FOR IMMEDIATE RELEASE February 14, 1995 No. TR-3 CONTACT: (202) 225-1721

## CRANE ANNOUNCES HEARING ON SELECT FISCAL YEAR 1996 BUDGET PROPOSALS AND POSSIBLE GSP EXTENSION

Congressman Philip M. Crane (R-IL), Chairman of the Subcommittee on Trade of the Committee on Ways and Means, today announced that the Subcommittee will hold a hearing on the Administration's fiscal year 1996 budget proposals that are under the jurisdiction of this Subcommittee, including the U.S. Customs Service, the International Trade Commission and the Office of the United States Trade Representative. In addition, the Subcommittee will also consider a possible extension of the Generalized System of Preferences (GSP) program. The hearing will take place on Monday, February 27, 1995, in the main Committee hearing room, 1100 Longworth House Office Building, beginning at 10:00 a.m.

## BACKGROUND:

On February 6, President Clinton submitted his fiscal year 1996 budget to the Congress. The FY96 budget includes proposals for the U.S. Customs Service, the International Trade Commission and the Office of the United States Trade Representative, which are within the jurisdiction of the Committee on Ways and Means. The Subcommittee will hear testimony from Administration witnesses from each of the aforementioned agencies.

The Subcommittee also will receive testimony on the possible extension of GSP, a trade program which promotes economic development and creates markets for U.S. exports in developing countries through tariff preferences. Title V of the Trade Act of 1974 grants the President authority to provide duty-free treatment on imports of any eligible article from beneficiary developing countries, subject to various statutory criteria for country and product eligibility. The authority, which was extended in the Uruguay Round Agreements Act (P.L. 103-465), expires July 31, 1995.

## **DETAILS FOR SUBMISSIONS OF REQUESTS TO BE HEARD:**

Requests to be heard at the hearing must be made by telephone to Traci Altman or Bradley Schreiber at (202) 225-1721 no later than the close of business, Tuesday, February 21, 1995. The telephone request should be followed by a formal written request to Phillip D. Moseley, Chief of Staff, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515. The staff of the Subcommittee on Trade will notify by telephone those scheduled to appear as soon as possible after the filing deadline. Any questions concerning a scheduled appearance should be directed to the Subcommittee staff at (202) 225-6649.

In view of the limited time available to hear witnesses, the Subcommittee may not be able to accommodate all requests to be heard. Those persons and organizations not scheduled for an oral appearance are encouraged to submit written statements for the record of the hearing. All persons requesting to be heard, whether they are scheduled for oral testimony or not, will be notified as soon as possible after the filing deadline.

Witnesses scheduled to present oral testimony are required to summarize briefly their written statements in no more than five minutes. THE FIVE MINUTE RULE WILL BE STRICTLY ENFORCED. The full written statement of each witness will be included in the printed record.

In order to assure the most productive use of the limited amount of time available to question witnesses, all witnesses scheduled to appear before the Subcommittee are required to submit 200 copies of their prepared statements for review by Members prior to the hearing. Testimony should arrive at the Subcommittee on Trade office, room 1104 Longworth House Office Building, no later than 1:00 p.m., Thursday, February 23, 1995. Failure to do so may result in the witness being denied the opportunity to testify in person.

## WRITTEN STATEMENTS IN LIEU OF PERSONAL APPEARANCE:

Any person or organization wishing to submit a written statement for the printed record of the hearing should submit at least six (6) copies of their statement by the close of business, Monday, March 13, 1995, to Phillip D. Moseley, Chief of Staff, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515. If those filing written statements wish to have their statements distributed to the press and interested public at the hearing, they may deliver 200 additional copies for this purpose to the Subcommittee on Trade office, room 1104 Longworth House Office Building, at least one hour before the hearing begins.

#### FORMATTING REQUIREMENTS:

Each statement presented for printing to the Committee by a witness, any written statement or exhibit submitted for the printed record or any written comments in response to a request for written comments must conform to the guidelines listed below. Any statement or artibits not in compilance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

- All statements and any accompanying exhibits for printing must be typed in single space on logal-size paper and may not exceed a total of 10 pages.
- 2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material about 0 be referenced and quoted or paraphrased. All oxhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.
- Statements must centain the name and capacity in which the witness will appear or, for written comments, the name and capacity of the percent submitting the statement, as well as any clients or persons, or any organization for whom the witness appears or for whom the statement is submitted.
- 4. A supplemental sheet must accompany each statement listing the name, full address, a telephone number where the witness or the designated representative may be reached and a topical outline or summary of the comments and recommendations in the full statement. This supplemental sheet will not be included in the printed record.

The above restrictions and institutions apply only to material being submitted for printing. Statements and exhibits or supplementary material submitted solely for distribution to the Members, the press and the public during the course of a public bearing may be submitted in other forms.

\*\*\*\*

Chairman CRANE. Our distinguished minority leader is en route. He is caught in the air, and he will be here just a few minutes late. But we will commence.

We are at one of the most critical economic junctures in our Nation's history, and we in the Congress and the administration have spent a great deal of time talking about reducing the deficit and controlling spending. There have been modest attempts. Aside from all the talk, however, our annual deficits continue to hover in the \$200 billion range as Federal spending continues to increase. We all agree that government must be smaller, more efficient and less intrusive. Where we disagree, however, is on how we get there.

Today, we are going to hear from administration officials with ITC, Customs and USTR on their 1996 budgets. And I am interested in hearing their statements, for the time is now for us to work together to make sure we are using the taxpayers' money most effectively. The public demands it. I believe this subcommittee is committed to searching for every reasonable savings possible,

and certainly I know I am.

Today, we will also receive testimony on proposals for extending the Generalized System of Preferences Program which expires on July 31 of this year. For over 25 years, the President has been authorized to grant tariff preferences to developing countries under GSP. Congress extended the program on a short-term basis in the 1993 budget reconciliation bill and again in the Uruguay Round Act.

I am concerned that those stopgap extensions are disruptive to companies that are using the program. USTR uses the GSP statute as a trade policy tool, and many U.S. businesses depend on GSP treatment to help reduce costs. The problem has been one of finding adequate revenue to offset the tariffs, which are forgone. We welcome the administration's suggestions in this regard.

I thank the witnesses for appearing today and look forward to their testimony on these important issues. Any statement will be included in the record, but if you could summarize your presen-

tations in 5 minutes we would appreciate it.

We will open up then with our—excuse me. We do have the other side to be heard from with an opening statement. I yield.

Mr. PAYNE. Thank you very much, Mr. Chairman.

I am pleased that the subcommittee is taking this opportunity to oversee the operations of the major trade agencies in our jurisdiction and to review their budget requests. It is important that the Committee on Ways and Means authorize appropriation levels that will enable these agencies to fulfill their important responsibilities for conducting and administering U.S. trade policies while operating within budgetary constraints.

I particularly welcome this hearing on possible extension of the GSP Program. For the past 20 years this program has promoted economic development through trade rather than aid which has provided a useful trade policy to promote worker rights, intellectual property protection and market access in developing countries. I would hope that funding will be available to enable extension of this program for a longer term than has been possible in the past 2 years and that the subcommittee will consider possible reforms

such as those proposed by the administration last year so that this program can operate most effectively.

I look forward to working with you, Mr. Chairman, for early leg-

islative action.

Chairman CRANE. Thank you.

Hon. Peter Watson, Chairman of the U.S. International Trade Commission.

# STATEMENT OF HON. PETER S. WATSON, CHAIRMAN, U.S. INTERNATIONAL TRADE COMMISSION

Mr. WATSON. Thank you, Mr. Chairman and members of the subcommittee. Mr. Chairman, we would like to congratulate you on your appointment, and that of the members to the subcommittee.

I would briefly like to identify some of my colleagues here: Vice Chairman Nuzum, Commissioners Crawford and Bragg, and mem-

bers of our senior staff.

Mr. Chairman and members of the subcommittee, I am pleased to have this opportunity to meet with you today to discuss the activities of the U.S. International Trade Commission for the fiscal year 1996. As you suggest, Mr. Chairman, my full statement has been submitted; and we will have a brief summary for you.

Mr. Chairman, the Commission sincerely appreciates the committee's previous support for the ITC's programs and its continued strong interest in our work. As the subcommittee is well aware of the functions of the ITC, I will not dwell on these except to speak to recent upcoming developments in our activities. Following this,

I will briefly address the related budget issues.

Mr. Chairman, obviously the most major activity of the subcommittee over the last year was the passage of the Uruguay round, and we congratulate you and the subcommittee on your work in this regard. We at the Commission are pleased to play our part in the administration of the new codes, and we anticipate that the Uruguay round Agreements Act will involve the assumption of substantial new responsibilities by the ITC which will indeed increase over several years as various additional responsibilities devolve to our agency.

For example, on January 1 of this year the Commission became responsible for conducting a new class of injury review investigations, known as black hole cases, of certain industries benefiting from countervailing duty orders, with the first case likely to be con-

ducted during the second half of this fiscal year.

Other expected new responsibilities include assisting Commerce and USTR in the pursuit of remedies and the World Trade Organization in regard to certain subsidies, increased litigation as a result of the new legislative language and providing USTR with advisory opinions in connection with the WTO dispute settlement process. We expect as a result of these new responsibilities, Mr. Chairman, to be having about a 10- to 15-percent increase in our workload this year.

During a transition period beginning in 1998 the Commission will be faced with conducting an injury review of all outstanding antidumping and CVD duty orders as to which the domestic industry expresses interest, the so-called sunset cases. Beginning in the

year 2000, the Commission will be required to conduct a review of

all 5-year-old orders.

To perform these new responsibilities the Commission will likely have to increase its FTE base and nonpersonnel expenditures by mid-1998, with the overall increase in our sunset reviews almost doubling the historic title VII workload in fiscal years 1999 and 2000.

Let me now turn to budget issues. Perhaps I can say, most emphatically, I do not enjoy coming before this subcommittee suggesting that I want its support in asking for an increase in funds over last year's no matter how minimal. We want to assume our share of reduction to government and bureaucratic expense, and we will operate at whatever level Congress funds us. However, the record

of our 1996 request should be clear to the subcommittee.

As the members will see, the budget request of the Commission for fiscal year 1996 is for \$47.177 million. This would, at least at first blush, appear to be a not insignificant increase over the designated appropriation of \$42.5 million received by the ITC for fiscal year 1995. However, for completeness, let me clarify that the real appropriation last year was actually \$44.5 million as the conference committee factored into its final allocation of approximately a \$2 million carryover that the ITC had at that time. We currently project actual expenditures of approximately \$44.5 million for fiscal year 1995 and do not expect any carryover for fiscal year 1996.

Mr. Chairman, at the risk of the appearance of special pleading, I would like to emphasize that our fiscal year 1996 budget request is extremely moderate when one considers that the fiscal year 1996 request, if met, would essentially allow the Commission to function as it is currently structured at fiscal year 1995 levels, despite the fact that we anticipate a 10- to 15-percent increase in our work-

load.

Although the fiscal year 1996 budget request is approximately \$2.5 million above projected Commission expenditures for fiscal year 1995, that is a 5.7-percent increase. Approximately 85 percent of that amount is accounted for by mandatory salary increases and rent over which we have no control. In essence we are asking for only what the Commission minimally needs to continue to do its job as currently structured. In short, the Commission's fiscal year 1996 budget contains no fat.

Despite no decline in its workload the Commission has accomplished a significant amount of downsizing during the last 4 years. Notably, we have been successful in reducing our FTE levels from 487 at the end of fiscal year 1992 to the projected level of 455 at the end of fiscal year 1995. This represents approximately a 6-

percent decline.

In that regard, the Commission has already achieved OMB's recommended staffing levels for fiscal year 1996. This downsizing of our FTE levels is particularly relevant because, historically, approximately 70 percent of the Commission's budget has expanded for personnel compensation and benefits.

Should the Commission not receive its full fiscal year 1996 request for appropriation from Congress, we will have to make appropriate adjustments. That may include a possible reduction in force, significant changes to the manner in which the Commission cur-

rently conducts all of its studies and investigations, and elimination of agency details. Such adjustments, if necessary, will likely

impact on the Commission's work product.

The majority of the Commission's activities are controlled by legislation, and there are real limits as to the structural changes the Commission can make without corresponding changes to our controlling statutes. New fiscal realities present an opportunity, however, to reexamine what our organization does and how it does it. We want to work with you, Mr. Chairman, and the members to seriously examine if there are ways to reduce our expenditures.

Mr. Chairman, I share the belief in the need to rethink and restructure government and fundamentally change the way that it operates. I know that the leadership and yourself are also advocates of downsizing the bureaucracy to create a more efficient and

responsive government for the people.

I applaud the efforts that are being made by the leadership and the other proponents of various reform initiatives. In furtherance of those efforts, we will continue to actively participate to accomplish these initiatives and will keep the subcommittee fully apprised of our activities.

Mr. Chairman and members of the subcommittee, I thank you for the opportunity to appear here today. I would be happy to answer any questions that the subcommittee might have at this time.

[The prepared statement follows:]

## UNITED STATES INTERNATIONAL TRADE COMMISSION

## STATEMENT OF PETER S. WATSON, CHAIRMAN BEFORE THE SUBCOMMITTEE ON TRADE OF THE COMMITTEE ON WAYS AND MEANS February 27, 1995

Mr. Chairman and members of the Subcommittee, I am pleased to have this opportunity to meet with you today to discuss the budget request of the United States International Trade Commission for fiscal year 1996. The Commission appreciates the Committee's previous support for the Commission's programs, and its continued strong interest in its work.

## Overview of the Commission's role in U.S. International Affairs

The U.S. International Trade Commission is an independent, nonpartisan, quasi-judicial agency created by an Act of Congress. Its six Commissioners are appointed by the President and confirmed by the Senate for terms of nine years. As provided by statute, the ITC has unique independent budget authority. 19 U.S.C. section 2232 provides that the Commission's proposed allocations be "transmitted to the President . . . and included by him in the Budget without revision . . ." Each year, the Chairman appears before the Congress on behalf of the Commission to justify its budget request for the preceding year.

The Commission plays an important role in assisting U.S. trade policy. In its adjudicative role, the ITC determines whether certain imports injure or threaten to injure U.S. industry (Title VII - antidumping and countervailing duty investigations); and whether unfair methods of competition or unfair acts are occurring in the importation of articles into the United States (section 337 - unfair practices in import trade such as patent infringement). The Commission also makes recommendations to the President regarding whether domestic industries are being seriously injured by increasing imports (section 201 - escape clause investigations); whether agricultural imports are interfering with USDA farm programs (section 22 investigations); and whether imports from Communist countries are causing market disruption in the United States (section 406 investigations).

At the request of the President or the Congress, the Commission undertakes comprehensive studies on key issues relating to international trade and economic policy matters. Detailed reports on its factfinding investigations (section 332 investigations) are provided to the President and Congress and become part of the information upon which U.S. trade policy is based. The Commission, upon request, also monitors import levels and provides other information and technical

<sup>&</sup>lt;sup>1</sup> The Uruguay Round Agreements Act amended section 22 to prohibit the application of quantitative import limitations or fees on products from World Trade Organization member countries.

advice to the President and Congress on tariff and trade matters and proposed legislation.

Other responsibilities of the ITC include providing the Congress and the President with independent, expert technical advice to assist in the development and implementation of U.S. trade policy; responding to requests for information from the Congress and the President on various matters affecting international trade; and maintaining the Harmonized Tariff Schedule of the United States. To carry out these responsibilities, the Commission has to maintain a high degree of expertise and readiness in its work force.

## The Commission's Projected Future Workload

The Commission projects a future workload increase of 10-15% in FY 96. The Commission anticipates that the Uruguay Round Agreements Act will impose substantial new burdens on the Commission which will increase over several years as various additional responsibilities devolve on the agency. For example, on January 1, 1995, the Commission became responsible for conducting a new class of injury review investigations ("black hole" cases) of certain industries benefitting from countervailing duty orders, although the first cases are not likely to be conducted before the last quarter of FY 1995. If consolidated, there are approximately 27 of those cases that may be brought by petitioners beginning in FY 95.

The Uruguay Round implementing legislation made a number of changes in laws which the Commission administers. As these changes in the trade relief laws take effect, the Commission anticipates an increase in court litigation and WTO dispute settlement as parties and countries seek clarification of new statutory terms and international obligations, respectively.

The Commission also expects to receive requests to evaluate expansion of and various aspects of trade under the North American Free Trade Agreement (NAFTA), or to provide advice as to the probable economic effect of immediate or accelerated elimination of duties on imports from Mexico under NAFTA.

The Commission's workload is not expected to increase again substantially until mid-1998 when the Commission will have to begin handling sunset review cases called for by the new GATT implementing legislation. During a transition period beginning in 1998, the Commission will be faced with conducting an injury review of all outstanding antidumping and countervailing duty orders as to which the domestic industry expresses interest. There are approximately 400 outstanding orders eligible for review in the transition period. Beginning in the year 2000, the

The amount of work involved in each of these reviews will roughly correspond to that in a final injury investigation. In FY 94, the Commission

Commission will be required to conduct a review of all five year old orders. To perform these new responsibilities, the Commission will likely have to increase its FTE base and non-personnel expenditures substantially by mid-1998.

## The Commission's FY 96 Budget Request

The budget request of the United States International Trade Commission (Commission) for fiscal year (FY) 1996 is for \$47,177,000. The Commission is requesting a funding level of 458 full-time equivalents (FTEs) for FY 1996. The FY 96 staffing plan (449.5 full time permanent positions) does show an increase of two full time permanent positions as compared to the Commission's FY 95 staffing levels (447.5 full time permanent positions) which are needed to handle the projected increased workload as a result of the passage of the Uruguay Round legislation. The total number of positions allocated by the Commission in FY 96 is, however, 6.5 positions below the number of positions allocated by the Commission in FY 94.

The proposed budget for FY 1996 reflects the beginning of a very modest buildup in resources in order to allow the Commission to assume the substantial new obligations imposed by the Uruguay Round legislation. I believe that the Commission's FY 96 request is moderate for a number of reasons.

First, our requested appropriation is tailored to allow the Commission, as it is currently structured, to continue to operate at FY 95 levels. Although the Commission's FY 96 budget request of \$47,177,000 is approximately \$2,500,000 or 5.7% above net projected expenditures in FY 95, approximately 85% of that amount is accounted for by mandatory increases to its salary levels and an increase in the Commission's rent.

Second, in contrast to previous years, the Commission will not have the benefit of a carryover. In FY 94, the Commission spent less than its appropriation and had a sizable carryover of funds for use in FY 95. The Commission's FY 95 appropriation, however, was far less than expected. In order for the Commission to continue to operate at FY 94 levels in FY 95 and meet mandatory increases to base pay, all FY 94 carryover funds are expected to be expended in FY 95.

completed approximately 130 final injury investigations, each being approximately one year in length.

<sup>3</sup> In FY 95 and FY 96 the Commission expects to expend approximately 70% of its available resources on personnel compensation and benefits.

<sup>&</sup>lt;sup>4</sup> The Commission's revised FY 95 budget request was \$44,657,000. The House Appropriations Committee recommended that the ITC's FY 95 funding level be set at \$44,200,000 and the Senate Appropriations Committee recommended \$43,500,000. Ultimately, the appropriation received by the Commission was \$42,500,000, which amount was recommended by the conference committee.

Third, although there have been some fluctuations in the Commission's workload (i.e., flat-rolled steel cases) in recent years, the Commission's workload has remained relatively flat from 1991 on. Nonetheless, the Commission has already accomplished a significant amount of streamlining and downsizing. For example, in FY 93 the Commission expended funds for 470 FTEs, however, our FY 96 request anticipates only 458 FTEs. In that regard, the Commission has achieved or surpassed OMB's recommended staffing levels for FY 96. I remain committed to continue the Commission's streamlining process as well as to examine all ontions for downsizing the agency.

Fourth, as discussed above, the Commission expects to see an immediate 10% to 15% increase in its workload in FY 96 as a result of the Uruguay Round Agreements Act. The Commission has not, however, asked for a corresponding increase in resources. The Commission's requested FY 96 appropriation is merely sufficient to keep the Commission operating at FY 95 levels.

## The Impact of a Reduction in our Requested Appropriation

Let me say most emphatically that I do not enjoy coming before this Committee suggesting that I want its support in asking for an increase in funds over last year. We do want to assume our share of the reduction to government and bureaucratic expense and we will operate at whatever level the Congress funds us.

Should the Commission not receive its full FY 96 requested appropriation from Congress, we will make appropriate adjustments. That may include a possible reduction in work force, significant changes to the manner in which the Commission currently conducts all of its studies and investigations, and an elimination of all agency details. Such adjustments, if necessary, will likely impact on the Commission's work product. The majority of the Commission's principal activities are, however, controlled by legislation and there are limits to the structural changes the Commission can make without corresponding changes to our controlling statutes.

The Conference Report accompanying the Act which reports the Commission's FY 95 appropriation indicates that "(t)he conferees agree that any program reductions should be taken from the amounts requested for section 332 studies". In response, the Commission has already begun to take steps to identify ways of further streamlining the section 332 process, including an audit of the 332 process by the Commission Inspector General. In addition, the Commission is

<sup>&</sup>lt;sup>5</sup> Currently, the Commission provides 6 FTEs to USTR each year pursuant to a Memorandum of Understanding.

Currently, it is estimated that the Commission commits approximately 15% to 20% of its resources to conducting 332 studies each year.

reviewing its recurring reports and other services to determine if reductions can be made in these areas. We believe that there are real savings to be made in this regard. Beyond this, however, changes to the section 332 process caused by a reduction in the Commission's appropriation this FY will affect the Commission's ability to respond to the requests of the Congress and the President in this area and dilutes the extremely valuable analytical resources of the agency.

Mr. Chairman and members of the Subcommittee, new fiscal realities present an opportunity to reexamine what our organization does and how it does it. We want to work with you to seriously examine if there are ways to reduce our expenditures.

Chairman CRANE. Thank you, Mr. Watson.

One result of the Uruguay round was the requirement that the ITC conduct sunset reviews of existing dumping orders. How are you preparing to address these additional demands on your resources?

Mr. WATSON. That is a very important objective which we are addressing, Mr. Chairman. We are starting to, in fact, identify what

our personnel needs are going to be.

We will have approximately 400 cases to review for the interim series which we call the transition sunset cases, and so we are aggressively and actively identifying where they are going to come from and how we are to address those needs. I am obliged to say that the increase in those cases will, in fact, involve almost a doubling in the traditional title VII workload in the fiscal years 1999 to 2001.

Chairman CRANE. I notice your budget includes an increase for section 332 studies, the ones requested by the Congress and the President. What is the reason for the projected increase and how much of your resources are used to do these studies? And are there any recurring reports that could be terminated?

Mr. WATSON. Thank you, Mr. Chairman.

Particularly as to the last question, I believe, in fact, over the years what we have seen is a significant number of recurring reports that have been added on without any particular sense of their natural longevity and what their relevance might be in the future. I would like to work very closely with members of this subcommittee and—as well as our colleagues on the Senate side to eliminate recurring reports that have perhaps served their natural life, and we would like to try and eliminate those.

We will be anticipating some increase in section 332 studies shortly with respect to, I think, implementation issues for the World Trade Organization and the like, that we could possibly expect from USTR and others, but we hope to keep those to a minimum. Particularly we want to stay focused on what one might call value-added 332s, whereby we can really identify analytical support to, say, the House Ways and Means Committee, the Senate Finance Committee, and USTR rather than rote pro forma studies that are generated perhaps historically.

Chairman CRANE. Thank you.

Mr. Payne.

Mr. PAYNE. Thank you very much. Thank you, Mr. Watson.

To follow up on the last question concerning the section 332 studies, I understand that now 10 percent of the ITC personnel are involved in these 332 studies. You mentioned that you are looking at a way of narrowing that to value added. Do you think that is the best way that we can confine these or do you have any other ideas or suggestions about how we might reduce the numbers of these 322 studies?

Mr. WATSON. Mr. Payne, I think we have to be careful not to attempt to too closely restrict the prerogative of this committee and Senate Finance and USTR. We are very much in a responsive mode, if you will, and I would not want to try and suggest that we limit your jurisdiction in that regard.

Having said that, I think one can say that over the years there have been a number of 332 requests which perhaps may have benefited from additional examination by our clients, if you will, the requesters of these, to see whether or not they serve any fundamental and real purpose in terms of the U.S. economy and benefit to it. I don't know if one can say that some requests are essentially special interest pleadings or not, but it is clear that many of these

requests could use a better examination going in.

Having said that, the value of the 332 staff that we have is to provide some outstanding analytical advice and counsel both to Congress and to the White House, and it is very important to retain the ability to provide that. The same people involved in 332s are not limited to that because many are highly qualified economists that add real value to our title VII investigations as well. So I don't mean to suggest that those individuals are exclusively involved in 332s. They are involved in a broad range of our work, Mr. Payne.

Mr. PAYNE. Thank you. I also wanted to commend you on the answer concerning the recurring reports. I think if we can find a way to work within our budgetary constraints in that area it will certainly benefit us all.

Mr. WATSON. Thank you.

Mr. PAYNE. Thank you, Mr. Chairman.

Chairman CRANE, Mr. Houghton.

Mr. HOUGHTON. Thank you, Mr. Chairman.

Mr. Watson, good to see you. I know you do great work, and I know you have a great reputation. However, I would like to ask

you a question.

Suppose I said to you that there was an agency, whose name I will not mention, whose caseload had been going down for the last 3 years and wanted a 6 percent increase in its budget while, at the same time, two other agencies closely associated, the budget was

either flat or going down. What would you say to that?

Mr. WATSON. I would say that, if that agency was indeed the ITC, I would have some particular comments. Mr. Houghton, I think we all understand we have to look to reductions in expenses where we can. Let me just say that, in fact, if one was referring to the ITC, we have seen somewhat of a decline this last year; but fiscal year 1995 we do expect to see a 10- to 15-percent increase in our workload—due to the additional WTO responsibilities and the so-called black hole cases.

The figures also for the caseload tend to get skewed by virtue of the fact that, for example, in fiscal year 1993 we had 72 cases, depending on how you calculate them, that were related to one piece

of litigation, that is the steel cases.

So the fact of the matter is that, in real terms, although it is somewhat cyclical because of the economy in general, our workload has, in real terms, seen little major change. But, again, I would point out that in this fiscal year 1995 and going into 1998 and 2000, we will see a significant increase in our caseload as a result of the World Trade Organization. Indeed during 1998 to 2000 we will handle up to 400 cases—more than double historic title VII caseload—by virtue of the sunset review cases.

So we are in an interim period before we really see a major ramp up in our expenses, but in fiscal year 1995 we expect to see a 10-

to 15-percent workload increase.

Mr. HOUGHTON. That is interesting, but all I have to do is go on history. Those are the facts. The other is conjecture. I see the total caseload going down from 1992 to 1993, 1993 to 1994; and also I see a group that has 450, 460 people in it, as contrasted to USTR which has maybe 160 or 170. It makes me uneasy, particularly when we are trying to scrunch down all the costs we can.

Mr. WATSON. We share that objective, Congressman.

I would like to submit for the record a total summary of our investigative caseloads. And I think there was a high in 1993; but, in fact, in 1994 we will see an increase and again this year, in 1995.

Mr. HOUGHTON. Thank you, Mr. Chairman.

Chairman CRANE. Thank you.

Mr. Hancock.

Mr. HANCOCK. Thank you, Mr. Chairman. I have no questions, Mr. Chairman.

Chairman CRANE. Mr. Camp. Mr. Ramstad.

Mr. RAMSTAD. I don't have any questions at this time, Mr. Chairman.

Chairman CRANE. Mr. Zimmer.

Mr. ZIMMER. Thank you, Mr. Chairman.

Mr. Watson, the ITC provides assistance to small businesses through its Trade Remedy Assistance Office. In fiscal year 1994 that office responded to 309 inquiries from the public concerning trade remedies. Could you identify the number of these inquiries which resulted in actual investigations?

Mr. WATSON. I can't immediately, Congressman, but I would be

pleased to get back to you for the record.

Mr. ZIMMER. Can you tell us what the annual budget of that office is?

Mr. WATSON. I think I can. It is the salary associated—the budget associated is about 1.5 FTEs and whatever expenses they need overall within the organization, Congressman.

Mr. ZIMMER. And you are telling me also that there are only 1.5

FTEs assigned to that office?

Mr. WATSON. As currently structured, that is correct. The individuals who serve that office are, however, able to take advantage of the work products and activities of the overall organization so that is somewhat of an artificial amount.

Mr. ZIMMER. Thank you very much.

Thank you, Mr. Chairman. Chairman CRANE. Ms. Dunn.

Ms. DUNN. Thank you, Mr. Chairman.

Mr. Watson, you are requesting a 5.7-percent increase in your budget for 1996 and you say that 85 percent of that amount is accounted for by mandatory increases to the salary levels and an increase in the Commission's rent. What is the reason for the mandatory increases in the salary levels?

Mr. WATSON. It is purely legislative. The COLA is mandated by generally applicable law and the increase in rent having been nego-

tiated by SSA as set out in our underlying lease.

Ms. DUNN. Thank you. You detail six FTEs to the USTR.

Mr. WATSON. That is correct.

Ms. DUNN. What is the reason you have those folks on your pay-

roll and those are not listed on the payroll of the USTR?

Mr. WATSON. There has been a tradition of support to USTR in specialized areas when they recognize them. There are, over periods of time, specialized needs and support that we provide to USTR. We do it in the macrosense pursuant to the formal 332 study process. We do it in the informal sense providing them staff analytical support. And, consistent with that, we assist in technical advice and support to them sometimes on a dedicated basis with details when they need us.

Sometimes on an informal basis, for example, when we have general counsel staff traveling with USTR on negotiations. It is within the rubric of providing technical support to the executive branch.

Ms. DUNN. Working along the philosophical line that it would be neater and cleaner for a budget to list the number of FTEs that work for an agency, how do you think USTR would fare if those six FTEs were requested in the salary line item for the USTR?

Mr. WATSON. I am sure they would appreciate that.

Ms. DUNN. Do they not have the experience and expertise under

USTR to provide that service?

Mr. WATSON. I am sure that they could if they maintained a consistently higher level of career professionals, but the history of USTR suggests that they maintain a case group of specialists and they add on additional people as and when their workload needs.

Let me say that I agree that we are going to have difficulty sustaining and being able to justify details to that agency under a stripped-down budget. We are going to have to examine that as

well as our other staff expenditures should that need arise.

I don't think there is any suggestion that by use of those detailees, however, there is in any way an intention or desire to mislead authorization or appropriations committees. It has been a practice that has been long standing, and we have always been up front about the resources that we had to detail.

I think USTR, in fact, has its own budget request consistent with the type of assistance they are getting from around the rest of the government. I suppose that if they needed those additional people on a dedicated full-time basis, they would have to request it.

Ms. DUNN. Mr. Chairman, may I have one more question?

Chairman CRANE. Certainly.

Ms. DUNN. The ITC budget request for 1996 reflects an effort at downsizing and streamlining your commission. Could you elaborate

on your efforts, please?

Mr. WATSON. Certainly. The reality is that our downsizing efforts have been long standing, but it has been accentuated I would say in the last year. It has been long standing in the sense that, as I pointed out, since fiscal year 1992 we have effected a reduction of FTEs of about 6 percent. Totally we have, for at least 2 or 3 years, been rationalizing and reorganizing our agency along functional lines.

In response to—or should I say in conjunction with, the Vice President's initiative on Reinventing Government and the National Performance Review, we at the Commission have undertaken an

analysis of the way we do business.

Let me just say that I share the analysis of Peter Drucker in the latest Atlantic Monthly where he asks three questions for government agencies—and I think we need to continue to examine these ourselves. They are as follows: What is your mission? Is it still worth doing? And, third, if we were not already doing this would we now go into it?

I think that these are very profound questions, and those are the questions we will be asking ourselves as we go through this current National Performance Review and other related activities. We are very conscious of the need to ensure that our agency acts consistent

with that type of analysis.

Ms. DUNN. Thank you. Chairman CRANE. Thank you, Mr. Watson. We look forward to a continuing working relationship with you and appreciate your input. Thank you for testifying today.

Mr. WATSON. Thank you. We also look forward to a close working

cooperation.

Chairman CRANE. Very good.

[The following was subsequently received:]

CHAIRMAN



## UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, D.C. 20436

April 3, 1995

Honorable Philip M. Crane Chairman, Subcommittee on Trade Committee on Ways Means 1104 LHOB Washington, D.C. 20515

Dear Mr. Chairman:

Thank you for the opportunity to appear before the Subcommittee hearing on February 27, 1995. Enclosed, please find my responses to your letter of March 6, 1995. Please contact me if you or any other Member of the Committee should have any additional questions.

Peter S. Watson Chairman

Enclosure

#### U.S INTERNATIONAL TRADE COMMISSION

Questions for the Record Hearing on FY 96 Budget February 27, 1995

#### Question No. 1:

Does your FY 96 budget proposal include any adjustment in current rescurce allocations to meet the expected workload increase resulting from the implementation of NAFTA and the Uruquay Round, as well as the overall increase in trade activity?

#### Response:

The Commission anticipates that the Uruguay Round Agreements Act will impose significant new burdens on the Commission beginning in the last quarter of FY 95. As a result, the Commission estimates that there will be an overall 10-15% increase in its workload in FY 96 as compared with FY 95. This increase, as explained more fully below in the response to Question No. 3, results in part from the new class of CVD investigations that the Commission became responsible for on January 1, 1995. Other expected new responsibilities include assisting Commerce and USTR in the pursuit of remedies in the WTO in regard to certain subsidies, increased litigation as a result of the new legislative language, and providing USTR with advisory opinions in connection with the WTO dispute settlement process. For a three year period beginning in FY 1998, the Commission's title VII caseload will almost double as it becomes responsible for transition sunset investigations. Thereafter, the Commission will be responsible for conducting normal sunset investigations.

Despite this projected increase in the Commission's workload, the Commission has not requested a corresponding increase in resources. The Commission's requested FY 96 appropriation is merely sufficient to keep the Commission operating at FY 95 levels. In order to help it meet the workload increase, the Commission did make certain minor adjustments to its resource allocations which can be found on page 40 of the Commission's Budget Justification. Notably, it has increased its allocations for travel and printing. The Commission's FY 96 staffing plan also includes a total of two additional permanent positions over FY 95. (In FY 96 one position was added in the Office of the General Counsel, Investigations and in Economics; one position was eliminated in the Office of Personnel). The Commission anticipates the necessity for a buildup of personnel resources in FY 98 in order to meet demands caused by the sunset investigations.

Ouestion No. 2:

How many antidumping and countervailing duty cases have you investigated in the last year? How does this number compare to previous years? Do you expect that this level is likely to increase, decrease, or stay the same in future years? If you expect a change, please explain your reasoning.

#### Response:

The Commission normally combines all title VII investigations involving the same product from multiple countries that are filed concurrently as one "packaged" case. We believe that counting Title VII cases on a "packaged" basis is a more accurate reflection of workload than counting each product/country combination separately since it combines investigations involving the same product from multiple countries. On this basis, the Commission instituted a total of 50 antidumping and countervailing duty investigations in FY 1994, 54 in FY 1993, and 58 in FY 1992.

We have estimated that there will be a 15 percent increase in the Title VII caseload resulting in 57 cases in both FY 1995 and FY 1996. This increase results from the legislation implementing the Uruguay Round subsidies agreement which requires immediate injury reviews of countervailing duty orders where no injury test had previously been afforded. Our estimate is that there are 45 such orders (24 on a "packaged" basis) and we will conduct approximately half of the investigations in FY 1995 and half in FY 1996. Between 1998 and 2001, the Commission must conduct injury reviews of 334 "transition" antidumping and countervailing duty orders which are five years or older. Beginning in 2000, the Commission is permanently charged with conducting injury reviews of all antidumping and countervailing duty orders which are five years old. We estimate that each review will involve work equivalent to a final injury investigation. As a result, the Commission anticipates that its title VII workload will double during the transition period, and at a minimum, increase the Commission's workload by at least 30% in the non-transition period after the year 2001.

#### Question No. 3:

As a result of the implementation of the Uruguay Round, the ITC became responsible for conducting a new class of injury investigations on January 1st. In FY 98, the ITC will also be required to begin conducting "sunset reviews" of existing dumping orders. How are you preparing to address these additional demands on the Commission?

#### Response:

INJURY INVESTIGATIONS OF CERTAIN OUTSTANDING CVD ORDERS

On January 1, the Commission became responsible for conducting a new class of injury investigations for countervailing duty (CVD) orders which did not originally receive injury determinations. Such orders will be revoked unless, within 6 months of the subject country's joining the WTO, a domestic interested party requests an injury investigation. If a request is received the Commission must conduct an injury investigation and complete that investigation within one year of initiation. The Commission, however, has some discretion to schedule the initiation of such investigations to maximize the efficient utilization of government resources.

Since domestic interested parties have no incentive to file early, we do not expect to begin receiving requests until the end of the applicable 6 month period for any order. Thus the first cases should not begin until June of this year at the earliest.

The Commission has taken the following actions to prepare for these cases:

- \* On January 3, the Commission published in the <u>Federal</u>
  <u>Register</u> interim regulations to govern these cases.
- Commission staff have consulted with Commerce Department officials on which orders are subject to this procedure, scheduling, and procedural matters, to assure maximum coordination and efficiency.
- \* Initiation will be coordinated with Commerce Department administrative reviews to facilitate both agencies processes and minimize the burden on the parties of possible simultaneous DOC and ITC investigations.
- \* The Commission plans to maximize consolidation of cases from different countries involving the same or similar products and to spread the investigations out over approximately a two year period so as to address the additional work with existing staff and to ensure that all cases are completed prior to the beginning of sunset reviews.

There are currently 46 orders potentially eligible for these injury investigations. Assuming maximum consolidation of orders involving the same or similar products from multiple countries, the number of potential separate investigations would be 27. It is likely that the actual number of investigations could be further reduced if domestic interested parties choose not to request investigations due to the small volume of imports from particular countries or the age of the orders.

Since these investigations require the same kinds of information

and, generally, the same procedures as a final CVD injury investigation, we assume that each case will be the workload equivalent of a final 120 day investigation. We estimate 10 additional injury investigations per year in FY 96 and 97 to account for these cases.

#### SUNSET REVIEWS

The sunset cases will result in a significant and largely permanent increase in Title VII caseload. The Commission has two tasks: 1) beginning in FY 1998, it will conduct injury reviews of the currently outstanding "transition" antidumping and countervailing duty orders; and 2) beginning in FY 2000, it will undertake the continuing task of conducting injury reviews of all antidumping and countervailing duty orders every five years. We assume that a sunset review will be the workload equivalent of a final 120 day investigation.

We have been informed by Commerce that there are currently 334 transition orders. Using the most optimistic consolidation estimates, the Commission would have to conduct 128 consolidated transition sunset investigations between July 1, 1998 and June 30, 2001. Thus, over a three year period the Commission will likely have to conduct an average of 42 additional consolidated investigations per year. Over the last few years the Commission has conducted on average 45 preliminary investigations and 20 final investigation each year.

As the transition cases begin to wind down, the Commission will have to begin conducting normal sunset reviews in calendar year 2000. Thus, the caseload will not return to 1995 levels but will stabilize at a higher level due to the ongoing sunset review requirements.

The Commission has taken a number of preliminary steps to prepare for these reviews:

- The Commission's Director of Operations established a GATT Implementation and Personnel Planning Committee composed of senior staff from the Offices of the Investigations, Economics, and General Counsel to begin planning for sunset review in general and the initial flood of transition cases in particular. The first task of the Committee was to develop manpower estimates for addressing the added transition and permanent caseload.
- \* Budgetary constraints will certainly require that some portion of the increased workload must be absorbed by existing personnel. The Planning Committee is

developing proposals for flexible staffing and cross training of existing staff to allow the Commission to shift resources efficiently to deal with the cyclical nature of the transition cases and the change in the Commission's workload generated by sunset review.

- \* Staff of the Commission and the Department of Commerce have had informal discussions on means to coordinate consolidation and scheduling of transition cases. Prior to July 1998, the Department, coordinating with the Commission, must issue a comprehensive schedule for hearing the transition cases.
- \* The substantive and procedural issues in the new countervailing duty injury investigations are similar to those that the Commission and Commerce will encounter in sunset review. Thus, both agencies hope to use their experience in these cases as a means for preparing for the more voluminous sunset process and further developing means to coordinate scheduling and procedures to reduce the burden on participating parties and the agencies.
- \* The Chairman has recently established an Investigations Working Group to review and make recommendations on streamlining the Commission's Title VII investigative processes. The agency's goal is to further increase staff productivity and efficiency of all Title VII investigative procedures prior to the beginning of sunset reviews.

The Planning Committee and the Investigations Working Group will consider possible procedural changes that should result in increased productivity. Nonetheless it is likely that there will still be a need for a significant increase in personnel assigned to these investigations. Procedural changes are constrained by the requirements of the statute with regard to the data that must be collected and the depth of explanation required of the Commission, including consideration of arguments of the parties. Moreover, these proceedings are subject to judicial review, which also limits the ability of the Commission to adopt any radical procedural innovations.

#### Ouestion No. 4:

The ITC budget request for FY 96 notes that it reflects significant downsizing and streamlining efforts. Would you elaborate on your efforts in this area?

Response:

The ITC, as an independent and bipartisan agency, has voluntarily been responsive to the requirements of the National Performance Review and the President through the development of a Streamlining Plan, Customer Service Standards, and a Strategic Plan. It has also been responsive to the President's September 11, 1994 memorandum and E.O. 12839 for FTE reductions as outlined by OMB. In that regard, the Commission has surpassed OMB's recommended staffing levels for FY 96.

We are in the process of finalizing a Strategic Plan which will be completed by March 30, 1995. This Strategic Plan and agency Action Plans will incorporate goals from our Streamlining Plan. We have already begun the process of studying agency processes and have conducted several reorganizations to reduce supervisory to employee ratios. Our FTE staffing level has been decreasing steadily over the past three years, from 486 in FY 1993 to 458 for FY 1996, and have already exceeded the reductions proposed by OMB through FY 1996.

#### ORGANIZATIONAL STREAMLINING:

The following illustrates some of the ITC's organizational streamlining:

- The Office of Industries was reduced from 7 to 3 divisions. The reasons for the new structure were to reduce the number of middle managers and consolidate some of the support functions in light of reductions in staffing. In summary, the office has dropped one SES position, three GS-15 division chief positions, and one GS-14 branch chief position (a 22% decline in overall management). Over the same period of time the total office has gone from an authorized level of 144 in FY 1992, 136.5 in FY 1993 and currently stands at 125.
- The Office of Tariff Affairs and Trade Agreements has undergone substantial organizational and personnel changes. The staff allocation was reduced over a period of years from 24 in FY 1990 to 16 in 1995. This has required a streamlining of work processes. One Division was abolished and the employees were reassigned to another Division, eliminating a Division Director position and increasing the employee to supervisor ratio. There is another reorganization proposal under consideration that would eliminate the remaining divisions of the office, thereby resulting in a further reduction of middle management.
- The Office of Unfair Import Investigations has been reduced in staff from 18 in FY 1992 to 15 in FY 1995.
   As a result they have continually looked for ways to

streamline processes.

In the Office of Information Services there have been several reorganizations. The first was in 1993 when the Office of Information Services was transferred to the Office of Operations. In 1994 the Office of Information Services was combined with the Library and Statistical Services Division. We are currently in the process of eliminating two out of three supervisory positions in the Library. From 1992 to the present the Library has had a one third reduction in staff with no decrease in workload. Over the next months we will be studying what functions might be contracted out. More recently the Editorial staff was transferred to this organization, eliminating a supervisor. This action consolidated all functions concerned with information.

We are in the process of studying the overall Office of Information Services to determine what is most efficient and cost effective. We have recently moved two Divisions together and eliminated one management position thereby increasing the employee to supervisor ratio to 1 to 18.

- The Office of the General Counsel has reduced staff by four attorneys and one paralegal since 1993 while services have expanded. They, however, are in an area where we have projected growth because of the Uruguay Round legislation.
- The Director of Administration was reduced by one position (GS-15); Office of Finance and Budget was reduced from 12 positions in FY 1993 to 9 in FY 1996; The Office of Personnel was reduced from 11 positions in FY 1993 to 7 for FY 1995; and the Office of Management Services was reduced from 39 positions in FY 1993 to 31 for FY 1995.

## PROCESS STREAMLINING:

The following illustrate some of the streamlining efforts in ITC's programs:

When a request for an investigation under section 332(g) is anticipated from Ways & Means, Finance, the President, or USTR, the Commission staff always seeks an opportunity to comment on the draft requests; staff works with requestors to ensure that the studies are as focused as possible so that the Commission can provide the needed information in the most cost effective manner. Staff also seeks to have sunset dates included in all requests likely to require recurring reports.

- Commission staff seeks whenever possible to provide information to the USTR and Congress on an informal staff-to-staff basis without the institution of a formal 332 investigation. This approach is used particularly when the turn-around time for the information is short and no formal proceeding and report are desired. This approach also avoids the costs associated with a formal section 332 investigation and possible published report.
- The Commission has sought to develop specialized expertise in specific individuals in a variety of aspects of competitiveness which should in the long run provide efficiencies in the production of 332 studies. Specifically, the Commission has built and continues to build, expertise in antitrust/competition policy, intellectual property rights, labor standards, market access barriers, and the environment. It has also sought to enhance its in-house capability to assess economy-wide consequences of changes in trade policies and industry performance.
- Section 332 staff has a long history of streamlining efforts to present study findings in the most concise and user-friendly format for the requestor and in a manner that minimizes publication and other costs. For example, when feasible, staff, with the assistance of the requestor, has developed standardized or tabular formats in lieu of lengthy text.
- Where necessary and on a limited basis, we have purchased databases in order to meet the needs of the requester. This has been done only where staff either could not recreate the database or would have to expend extensive Commission resources to do so.
- When legislation for specific section 332 studies is introduced in Congress, the Commission reviews the proposal to ensure that it accurately describes the product that the drafter seeks and that it is within the Commission's ability to complete. This helps ensure the most efficient use of Commission resources.
- Staff periodically communicates with USTR and Congressional staff regarding ongoing recurring reports to determine whether such reports continue to be needed.
- In fiscal year 1993, a radical streamlining of the coverage of the Operation of the Trade Agreements

Program (OTAP) report was proposed, approved, and implemented.

- o A 1/3 reduction in OTAP's length was accomplished by eliminating redundant material, unnecessary "boilerplate" and coverage of marginal and "no action" issues.
- o Nearly 1,000 fewer work hours was spent annually on producing the 1992 and 1993 editions of the OTAP report than was spent on the 1991 edition (issued prior to the change).
- Since 1991, the Commission has made several important modifications to the East-West report to reflect the rapid political and economic changes occurring in these countries, resulting in continuous streamlining of the report. Most recently, the Commission scaled back the content of the East-West report to what we regard as the minimum required by law. Text analysis was removed and the reports became statistical reports.
  - Costs of producing the report have been halved as a result of the latest change.

#### Research methods

- The Commission has changed the way it approaches the requirement to report annually on the Caribbean Basin Economic Recovery Act (CBERA) and Andean Trade Preference Act (ATPA). A single team has been assigned to draft both reports, whose coverage will be harmonized and streamlined. Some immediate cost savings will be possible this year, while longer-term savings are anticipated once the changeover is firmly in place:
  - o CBERA and Andean travel were combined, in order to economize on the major element of travel cost: the round-trip from Washington.
  - the round-trip from Washington.

    o A staggered multi-year travel schedule was adopted, reducing the number of countries visited in each region each year.
  - o The Commission is working closely with the Department of State to improve coordination on fieldwork and the responsiveness of Embassy reports, both primary inputs into our analysis.
  - Review layers have been combined or eliminated for the CBERA/Andean, OTAP, and East-West reports.

#### Production and Distribution

- In an effort to reduce printing and mailing costs:
  - o Increased attention has been given to revalidation of mailing lists to ensure excess reports are not printed or mailed. To further reduce distribution costs, the Superintendent of Documents now sells those Commission reports that meet the Superintendent's public demand criteria. Although the Commission pays for the printing of the sold reports and no part of the proceeds received by the Superintendent are given to the Commission, such sales reduce Commission mailing costs and provides revenue to the government as a whole.
  - o The Commission is currently examining the feasibility of making reports available to the public electronically via the GPO Federal Bulletin Board, the National Trade Data Base, ITC bulletin boards, Internet, and other electronic modes. Use of such modes should eventually make reports more quickly available to a wider audience and may also reduce Commission printing and mailing costs.
- New publishing technology has been acquired which allows us to print reports based on actual demand, rather than by estimate. This has resulted in a reduction of three positions in the printing operations, and has allowed the Office of Administration to reduce middle management by 32%.
- Consideration is being given to purchasing and designing an imaging system. This would probably result in the elimination of part-time or temporary personnel to maintain a research data base of materials and should make research efforts more efficient and reduce the paper handled and stored. The Office of the Secretary, the Office of Unfair Import Investigation, the Office of the General Counsel and the Office of Administration will benefit from this system, if obtained.

## OTHER STREAMLINING:

• The Office of General Counsel has created automated systems to increase productivity and accomplish cost efficiencies. The Office is reorganizing support staff functions and providing cross-training to law librarians, secretaries, and paralegals to assure that full service can be maintained with reduced resources and that tasks can be allocated in the most costefficient manner to support the productivity of legal personnel.

- The Office of Information Services is in the midst of downsizing the agency's present mainframe-based international trade database to a client-server system that will save significant costs over the 5-year lifecycle while providing better, faster and more reliable statistics to agency analysts. We are working with other agencies on the NPR's IT-06 initiative (Develop an International Trade Database) to deliver this information to the public and reduce redundancy across the Federal government in developing and reporting these key data.
- The Office of Finance and Budget is in the midst of consolidating all financial systems currently operated on three separate systems at three separate locations to a single system in one location to be more efficient and cost effective. This will also provide the added benefits of "paperless" systems and improved information.
- While the ITC staffing levels are being reduced, the agency is also taking positive action to downsize related support costs. One example of this is the removal of telephone lines, resulting in a projected cost savings of approximately \$100,000 in FY 1995.

#### Ouestion No. 5:

The ITC budget request for FY 96 proposes an appropriation increase of \$4.667 million, the bulk of which would be used for salary increases. What is the current average salary of an ITC employee? What will this average be in FY 96?

## Response:

The Commission's "real" appropriation increase from FY 1995 to FY 1996 is \$2.677 million. The Conference Committee was aware that the Commission had for use a carry-over of approximately \$2.000 million from the FY 1994 appropriation. This carry-over should be added to the Commission's \$42.500 million FY 1995 appropriation for a total funding availability of \$44.500 million.

As of January 31, 1995, the Commission's average salary was \$57,946. It is expected that this average salary will be maintained in FY 1996.

## Ouestion No. 6:

The ITC currently details 6 full-time equivalent (FTE) staff to USTR. How long are these employees detailed and to which offices?

## Response:

An important part of the ITC's mission is to develop and maintain a staff unparalleled in its trade expertise. To broaden the expertise of our staff in trade and competitiveness issues, the ITC has a policy of supporting mutually beneficial activities at USTR with professional personnel detailed for extended periods of time. These employees are selected through a formal developmental personnel detail program that balances the benefits to the agency and the employee with the needs of USTR. The total number of details under this program is limited to six.

As of April 3, 1995, ITC staff will be detailed to the following offices at USTR:

Office of Agricultural Affairs
Office of Economic Affairs
Office of GATT/WTO Affairs
Office of Industry
Office of Textiles
Office of Trade and Development/GSP

Details are approximately one year in duration. All current details expire on December 31, 1995.

#### Ouestion No. 7.

Please discuss the steps you have taken to streamline the Section 332 process. Are the results of the Inspector General's audit of the process publicly available? If so, please provide a summary of the major findings.

## Response:

The Commission continuously monitors its section 332 process in an effort to produce quality reports in a cost effective manner. The following describes some of the issues surrounding section 332 streamlining and Commission efforts.

• There is considerable demand for Commission industry and trade analyses from the trade community, other agencies, individual members of Congress, and domestic industries. This demand is contained, however, by the fact that we are not required to undertake studies except at the request of the President, the USTR, the House Committee on Ways and Means, or the Senate Committee on Finance.

- When a request for an investigation under section 332(g) is received from Ways & Means, Finance, the President, or USTR, the Commission has no discretion regarding institution—the Commission must conduct the requested investigation and to the best of its ability provide the requested information. Requestors generally provide the Commission with an opportunity to comment on draft requests; staff will continue to work with requestors to ensure that the studies are as focused as possible so that the Commission can provide the needed information in the most cost effective manner possible. Staff already has been instructed to seek to have sunset dates included in all requests likely to require recurring reports.
- While the Commission has authority to self-initiate investigations under section 332 (under section 332(b)), in recent years it has rarely done so. The Commission has not self-initiated any new analytical section 332 investigations since 1985, although it should be noted that the Commission, at the suggestion of the Inspector General, converted two ongoing trade monitoring efforts into 332 investigations in 1993. Also, in 1991, the Commission self-initiated a 332 study to do background work in anticipation of a FTA probable economic effects request from the USTR under section 131 of the Trade Act of 1974, with the intention of folding the section 332 investigation into the section 131 investigation.
- Commission staff receives numerous requests to provide information to the USTR and Congress on an informal staff-to-staff basis without the institution of a formal 332 investigation. This approach is used particularly when the turn-around time for the information is short and no formal proceeding and report are desired. This approach also avoids the costs associated with a formal section 332 investigation and possible published report. Informal staff responses generally are not an option when the nature of the request is such as to require extensive staff research involving the need for public input, hearings, and questionnaires.
- As part of the Commission's effort to streamline agency personnel, the office that prepares the majority of section 332 reports, has been reduced by almost 20 persons during the past several years, a reduction of 13 percent (from 144 in 1992 to 125 in 1995). It

should be noted, however, that this unit is the core of Commission industry/commodity expertise and cannot sustain continuing cuts if the Commission is to maintain its operational readiness.

- The Commission has sought to develop specialized expertise in specific individuals in a variety of aspects of competitiveness which should in the long run provide efficiencies in the production of 332 studies. Specifically, the Commission has built and continues to build, expertise in antitrust/competition policy, intellectual property rights, labor standards, market access barriers, and the environment. It has also sought to enhance its in-house capability to assess economy-wide consequences of changes in trade policies and industry performance.
- Section 332 staff has a long history of streamlining efforts to present study findings in the most concise and user-friendly format for the requestor and in a manner that minimizes publication and other costs. For example, when feasible, staff, with the assistance of the requestor, has developed standardized or tabular formats in lieu of lengthy text. This has been particularly true in many of the probable effects reports and Generalized System of Preferences (GSP) studies which often involve the analysis of hundreds and sometimes thousands of products. Two recent examples of major studies for Congress incorporating such techniques are the NAFTA analysis (1993) and the GATT URA analysis (1994), each meeting the extensive needs of the Congress but done within a matter of months.
- Where necessary and on a limited basis, we have purchased databases in order to meet the needs of the requester. This has been done only where staff either could not recreate the database or would have to expend extensive Commission resources to do so.
- When legislation for specific section 332 studies is introduced in Congress, the Commission reviews the proposal to ensure that it accurately describes the product that the drafter seeks and that it is within the Commission's ability to complete. This helps ensure the most efficient use of Commission resources.
- Staff periodically communicates with USTR and Congressional staff regarding ongoing recurring reports to determine whether such reports continue to be needed.

- Increased attention has been given to re-validation of mailing lists to ensure excess reports are not printed or mailed. To further reduce distribution costs, the Superintendent of Documents now sells those Commission reports that meet the Superintendent's public demand criteria (principally recurring reports). Although the Commission pays for the printing of the sold reports and no part of the proceeds received by the Superintendent are given to the Commission, such sales reduce Commission mailing costs.
- The Commission is currently examining the feasibility of making reports available to the public electronically via the GPO Federal Bulletin Board, the National Trade Data Base, ITC bulletin boards, Internet, and other electronic modes. Use of such modes should eventually make reports more quickly available to a wider audience and may also reduce Commission printing and mailing costs.

The Inspector General has reviewed the Commission's role in the preparation of one type of Section 332, that being the "recurring reports". A summary of that audit is contained in Audit Report IG-01-93, Evaluation of the Commission's Role in Preparing Recurring Reports, which is attached (See Exhibit A).

#### Question No. 8:

Please provide a status report on the Section 332 dumping/CVD study

#### Response:

This study is due to USTR on June 30, 1995. It is on schedule and is presently undergoing the typical Commission review process. The economic effects of unfair trade practices and remedies have been estimated using public and questionnaire data. The Offices of Industries, Economics and Investigations as well as the office of the General Counsel have been involved in preparing this study.

#### Ouestion No. 9:

Do you anticipate a substantial increase in your workload due to the recent changes in the Section 337 statute? If so, please explain the nature of these projected increases and how it will affect your allocation of resources.

#### Response:

At the present time, we do not anticipate a substantial increase in workload at the present time as a result of the amendments to Section 337.

#### Ouestion No. 10:

The ITC provides assistance to small businesses through its Trade Remedy Assistance Office. In FY94, the TRAO responded to 309 inquiries from the public concerning trade remedies. Please identify the number of these inquiries which resulted in actual investigations. What is the annual budget of the TRAO and how many FTEs are currently assigned to the office?

#### Response:

The aforementioned statement that TRAO responded to 309 inquiries from the public concerning trade remedies needs clarification in order to provide an accurate response to Question 10. Not all of TRAO's FY 94 recorded inquiries reflect members of the public seeking "trade remedies". In fact, many inquiries do not pertain to TRAO's relevant trade laws enumerated in 19 U.S.C. § 1339(c)(2).

To date, one investigation involves a TRAO FY 94 recorded inquiry. The investigation is <u>Audible Alarm Devices for Divers</u>, Investigation No. 337-TA-365. For the particular inquirer involved, TRAO provided assistance in the preparation of a complaint and with post-filing proceedings until the inquirer retained legal counsel.

TRAO's operating needs are drawn upon the Office of Operations' overall operating budget on an as needed basis. TRAO also draws upon the budgeted resources of various Commission offices, including the Office of Investigations, the Office of Unfair Import Investigations, the Office of Industries and the General Counsel's Office.

Two employees are assigned to the TRAO-one part-time,  $^2$  GS-14, step 2 and one full-time,  $^3$  GS-11, step 6.

The 309 FY 94 recorded inquiries do not reflect inquirers who actively sought assistance from TRAO in FY 94, but who are recorded as first time inquirers in FY 93. To date, three investigations involve active FY 94 inquirers who are not reflected in the 309 FY 94 inquiries because they were logged as first time TRAO inquirers in FY 93. Such investigations are Certain Partial Extension Drawer Slides with Rollers, Investigation No. 731-TA-723, Manganese Sulfate from the People's Republic of China, Investigation No. 731-TA-725 and a § 301 investigation initiated on October 17, 1994 on behalf of the U.S. banana industry.

TRAO's involvement with these investigations is as follows. TRAO assisted the <u>Drawer Slides</u> petitioner in the preparation and filing of a petition, as well as during post-filing proceedings. TRAO provided brief post-filing assistance to the <u>Manganese Sulfate</u> petitioners until they retained legal counsel. Senator Inouye's office contacted TRAO concerning dumping relief for the U.S. banana industry. To date, the U.S. banana industry has pursued an investigation under § 301 to address difficulties in accessing the E.U. market. TRAO provided no assistance with this investigation.

<sup>24</sup> hours a week, equalling 3 work days a week.

<sup>40</sup> hours a week, equalling 5 work days a week.

#### Question No. 11:

Does the ITC plan to hire any consultants or experts as permitted under 5 U.S.C. 3109 for FY 96? Does the ITC currently have any such consultants or experts? If so, what are their functions?

#### Response:

SU.S.C. provides for the head of an agency to temporarily or intermittently hire experts or consultants for a time not to exceed one year. Other than the types of consultants/experts used this year, the Commission anticipates limited use of consultants and experts for FY 1996. For FY 1995, the Commission has currently obtained services from the following consultants/experts:

Brown & Company - to audit the Commission's FY 1993 and 1994 financial statements as requested by the IG.

International Food Policy Research Institute (Sherman Robinson) - to expand the capacity of the Commission to model and analyze options on trade arrangements with Latin American countries using multi-country computable general equilibrium.

#### Ouestion No. 12:

What inflationary factor was used in the calculation of your budget request?

#### Response:

Based on the OMB policy pay raise assumption provided by the Commission's OMB Budget Examiner on December 23, 1994, the Commission used 2.4% for its FY 1996 pay raise assumption. For nonpersonnel categories, the Commission's inflation factor varied for an average inflation factor of 4.0%.

#### RESPONSES TO QUESTIONS FROM CONGRESSMAN THOMAS

#### Ouestion No. 1:

The Commission has a number of regular "332" reports on autos, steel and other trade matters that it issues on a regular basis. Some of these reports are issued quarterly or even monthly. What reduction in cost would occur if all such reports were limited to annual publication?

#### Response:

The following tabulation shows actual FY-94 costs and estimated cost savings assuming only annual reports are produced. The overall cost reduction on these particular reports would be approximately \$99,000 or a 24% reduction.

332	FY-94 cost	Estimated "annual only" sayings
#135SOC(ann. and qty)	\$271,214	\$ 33,200
#191Footwear (qty) .	11,757	8,800
#207Autos (monthly) .	17,328	14,700
#327Steel (semi-ann.)	107,310	42,000
Total	\$407,609	\$ 98,700

#### Question No. 2:

I have frequently been able to obtain import and export data from the Commission by making a request and wonder if the Commission might find that it can serve others' needs without publishing reports that in some cases were started over a decade ago for political reasons. Please list any data or analyses which would be unavailable to the public if the Commission ceased publishing the following reports: steel, rum, footwear, autos, production sharing, ethyl alcohol, and the multi-fiber arrangement.

#### Response:

<u>Steel</u>.--Our data gathering activities for this report yield product line specific data that are not available from other sources, although some sources exist for more general data.

<sup>&</sup>lt;sup>4</sup>In instances where analogous data is available, sources would include the American Iron and Steel Institute, the Environmental Protection Agency, and the US Department of Commerce. Most of (continued...)

Specifically, product line information on capital expenditures, research and development expenditures, environmental expenditures, capacity, production, and capacity utilization, and profit and loss, as well as more general information on export activities, are all unique to this report. Although the Commission's coverage of the industry is generally superior to other sources and enables an objective assessment of industry developments, compilation of raw steel production, product line shipments, and the income statement data are available from other sources.

Rum.--Discontinuation of the Rum Report will result in information becoming unavailable to the public in several areas. (a) The Rum Report provides rum production and value data on a calendar year basis, and such calendar year data are not otherwise available to the public. (b) The Rum Report is the only conveniently-available source of reliable rum production data adjusted for production levels of the U.S. Virgin Islands and Puerto Rico. (c) The Rum Report is the only public information source which provides accurate production data adjusted for possible double-counting from production-sharing operations, places much of the rum production data into consistent units, and provides production data adjusted for changes in stocks.

<u>Footwear</u>.--The footwear report includes data from the Commerce and Labor Departments which are otherwise available to the public if one is willing to gather the information from a number of different offices in these agencies. The only data that are unavailable to the public is the plant closings and openings which we source from Footwear Industries of America, a trade association for U.S. footwear producers.

Although almost all data used to generate footwear reports are available to the public, they are not available in the format provided in our report. Our report incorporates all revisions to official data and provides a historical five-year annual data series and the current 2-year quarterly data.

<u>Autos</u>.--The breakdown of trade data by product (autos and light trucks) and the detail on import sources and export markets are the key elements of the report. These data could also be requested in a similar form from the Department of Commerce. In addition, to reproduce the bulk of the rest of the report, a researcher would have to search the latest weekly editions of <u>Automotive News</u> for sales, production, and certain price data; and call the Department of Labor for current employment

<sup>4(...</sup>continued) these sources would yield proxy data or more general data from which estimates would have to be made to replicate our data.

information and consumer and producer price data.

Production sharing. -- The Harmonized Tariff Schedule (HTS) requires importers to report the value of the U.S. -origin content of imports separately from the dutiable value (or foreign value added). No other Government or private organization provides a periodic analysis of imports under the production sharing tariff provisions. These statistics are not available to subscribers or purchasers of standard data tapes (or CDs) from the Bureau of the Census. Such data are available only from special tapes that show imports under "secondary reporting codes." However, considerable programing is required by the Commission to cross-reference production sharing trade with data for total trade, to produce the country- and commodity-specific data needed to analyze issues of importance to the trade community.

This report contains analysis and data particularly important for parties tracking the following issues:

- (a) Imports from the maquiladora industry in Mexico.
- (b) The effects of NAFTA on U.S.-Mexico trade.
- (c) The role and nature of U.S. companies in the growth of export-oriented industries in the Caribbean Basin.
- (d) A comparison of the use of U.S.-made components in the manufacturing operations of various trading partners.
- (e) Likely economic effects of free-trade agreements.

Ethyl alcohol. -- The size of the U.S. domestic market for ethyl alcohol is used to determine the local feedstock requirements for fuel ethyl alcohol imported by the United States from CBI-beneficiary countries. The base quantity to be used by the U.S. Customs service in the administration of the law is the greater of 60 million gallons or 7 percent of U.S. consumption as determined by the Commission. This calculated import quantity of ethyl alcohol would be unavailable should the Commission cease publishing the report.

For an individual to calculate the information currently supplied by the Commission, he or she would need to obtain, from the Department of Energy, the supply of ethyl alcohol and adjust for domestic consumption and export quantities. The necessary export information may be obtained from the Department of Commerce or the Department of Agriculture.

<u>Multi-fiber arrangement.</u>--The data in the report are not available to the public through any other source. We get the raw data used to compile the report from the Department of Commerce on electronic tapes. Commerce produces reports for use by OTEXA (Office of Textiles and Apparel) containing some of the data on a product basis, but this report is not generally available to the public. The value of our report is that it provides the data on a country basis and shows both quantity and value. Not only have

many customers, both domestic and foreign, asked to be put on our mailing list to receive the report annually, but we additionally get many requests for the type of data in the report.

#### Ouestion No. 3:

If all the reports listed in the second question were immediately eliminated, how much would the Commission save during the current and 1996 fiscal years? Over the next five years?

#### Response:

The total FY-94 cost of the seven reports listed was \$262,000, involving approximately 5.2 work-years of direct staff time. A significant amount of the work in these reports (particularly steel, autos, production sharing, and the MFA) is basic research required to maintain a proficient level of expertise which the Commission has found useful in apprising USTR, the Congress, other government agencies, and diverse private sector organizations of global industry trends and competitiveness issues. Even if the reports are cut or eliminated, much of this work must still be done. Eliminating these reports could actually have the effect of increasing costs, in that these reports provide an efficient way to respond to the many questions we receive on these issues.

#### Question from Mr. Houghton:

How many antidumping and countervailing duty cases have you investigated in the last year? How does this number compare to previous years? Do you expect that this level is likely to increase, decrease, or stay the same in future years? If you expect a change, please explain your reasoning.

#### Response:

The Commission normally combines all title VII investigations involving the same product from multiple countries that are filed concurrently as one "packaged" case. We believe that counting Title VII cases on a "packaged" basis is a more accurate reflection of workload than counting each product/country combination separately since it combines investigations involving the same product from multiple countries. On this basis, the Commission instituted a total of 50 antidumping and countervailing duty investigations in FY 1994, 54 in FY 1993, and 58 in FY 1992.

We have estimated that there will be a 15 percent increase in the Title VII caseload resulting in 57 cases in both FY 1995 and FY 1996. This increase results from the legislation implementing the Uruguay Round subsidies agreement which requires immediate injury reviews of countervailing duty orders where no injury test had previously been afforded. Our estimate is that there are 45 such orders (24 on a "packaged" basis) and we will conduct approximately half of the investigations in FY 1995 and half in FY 1996. Between 1998 and 2001, the Commission must conduct injury reviews of 334 "transition" antidumping and countervailing duty orders which are five years or older. Beginning in 2000, the Commission is permanently charged with conducting injury reviews of all antidumping and countervailing duty orders which are five years old. We estimate that each review will involve work equivalent to a final injury investigation. As a result, the Commission anticipates that its title VII workload will double during the transition period, and at a minimum, increase the Commission's workload by at least 30% in the non-transition period after the year 2001.

#### RESPONSE TO QUESTIONS FROM THE MINORITY

#### Ouestion No. 1:

The International Trade Commission's (ITC) request of \$47.177 million for FY 1996 is approximately 5.7 percent above its expenditures for FY 1995. Both USTR and the Customs Service, the other trade agencies within the jurisdiction of this Committee, have budget authorization requests at or below FY 1995 levels. While recognizing that the ITC is statutorily given the authority to present its budget estimates in the President's budget without revision by OMB, what is the most compelling reason for the ITC's budget while the budget for these other trade agencies has no proposed increase?

#### Response:

There are two essential reasons underlying the Commission's FY 1996 budget request: 1) the need to maintain non-discretionary programs and services at existing, already reduced levels; and 2) the additional functions assigned to the Commission under the Uruguay Round Agreements Act. The Commission has streamlined its activities and significantly reduced its personnel over the last three years. The increased funding request is largely driven by mandatory pay increases for the existing, reduced level of personnel.

We have been asked to contrast the Commission's FY 1996 budget request with those of other trade agencies. We do so in part, by contrasting the nature of Commission operations to those of the other agencies. The Departments of Commerce and Treasury (which includes the Customs Service), are multi-functional executive agencies which perform a broad range of mandatory and discretionary functions. Given the breadth of those agencies' activities, they have flexibility to reduce costs by cutting non-essential activities. Moreover, given their personnel resources, they have the ability to shift personnel from program to program to meet needs as they arise. Likewise, the United States Trade Representative has significant flexibility to supplement its personnel resources through its ability to draw personnel from other agencies through formal details and informal working groups. Indeed, the Commission currently has six professional employees on non-reimbursed detail to USTR.

The Commission, by contrast lacks that budget and personnel flexibility which comes with size and discretionary activities, or personnel supplementation. The ITC is a small independent agency that performs only those functions assigned by law and 70 percent of its budget consists of personnel costs; it has no discretionary programs to phase out or disbursements to reduce.

Because it is small, most Commission employees already work on multiple agency programs, rather than address a single need. Rather than an ability to shift personnel in-house or borrow from other agencies, ITC supplements the personnel resources of congressional staff and executive agencies.

Notwithstanding these constraints on its ability to reduce personnel costs, over the last three years, the Commission has moved aggressively to streamline its operations and reduce staff, and has done so during a period in which its workload was very demanding. Indeed, the <u>Flat-Rolled Steel Cases</u> imposed a significant additional burden on its investigative resources in FY 1993 and its litigation resources in FY 1994; the Commission met this challenge while reducing its FTE staffing level from 470 in FY 1993 to 455 in FY 1995 and without requesting additional funding from Congress.

The ITC has already met its 1996 OMB FTE goal. It has done so ahead of schedule while maintaining essential programs and service to its congressional and executive customers. Eighty-five percent of the Commission's budget is committed to personnel costs and rent. The FY 1996 budget request would permit the Commission to maintain existing functions at the level of efficiency and productivity it has achieved over the last three years of staff reductions.

But the Commission's essential functions will not remain static in 1996 and beyond. The Uruguay Round Agreements Act has imposed on the Commission significant and, for the most part, permanent increases in its Title VII workload:

- \* The Commission is responsible for conducting a new class of injury investigations of countervailing duty orders originally entered without an industry test. The Commission expects to conduct the these investigations in 1996 and 1997.
- \* The new WTO binding dispute settlement mechanism for antidumping and countervailing duty cases, coupled with the new obligations of those agreements, are likely to result in a significant increase in WTO disputes. While USTR represents the United States in these disputes, Commission attorneys prepare draft pleadings, and support USTR personnel before WTO panels.
- \* Between 1998 and 2001, the Commission must conduct injury reviews of 334 "transition" antidumping and countervailing duty orders which are five years or older. Beginning in 2000, the Commission is permanently charged with conducting injury reviews of all antidumping and countervailing duty orders which are five years old. We estimate that each review will

involve work equivalent to a final injury investigation.

The Commission's 1996 budget was carefully crafted to maintain existing programs and service, absorb the immediate additional tasks imposed by the Uruguay Round, and prepare for the major impact of the sunset reviews.

When the Department of Commerce was assigned a task similar to the Commission's new sunset reviews in the 1979 Trade Agreements Act, Import Administration created its Offices of Antidumping and Countervailing Duty Compliance, offices which now employ approximately 150 people. In the current budget climate, the Commission recognizes that it will not be able to engage in a staff buildup of similar proportions, especially for the three year transition cycle. Therefore, the Commission intends to redirect existing resources, assigning many of its highly-trained and expert Office of Industries and Office of Economics personnel to the transition sunset investigations. These personnel are already experts in industry analysis, fully-trained in Commission information gathering techniques, and likely to be far more efficient than any new staff which might be hired in 1988. The Commission's FY 1996-97 budgets reflect the retention of these skilled personnel.

#### Ouestion No. 2:

Some have suggested that one way to better utilize the ITC's resources is to reduce the number of Section 332 studies. Currently, more than 10 percent of the ITC's personnel resources (57 FTEs out of 458 FTEs) are devoted to producing these studies, which sometimes cover extremely narrow segments of the economy. Do you have any suggestions as to how we could cut down on the number of Section 332 studies performed by the ITC?

#### Response:

In responding to this question, it is first important to note that when the Commission receives a request for a section 332 investigation from the Congress or the President, we must respond to the request. Over the past three years the Commission has instituted 41 section 332 investigations, 21 requested by the Congress and 18 requested by the President. The Commission has only instituted 2 on its own motion.

In addition, the conduct of 332 studies enables the development of core competencies and expertise that enable the Commission to be responsive in addressing inquiries related to emerging and complex trade and economic issues. This multidisciplinary knowledge related to industry/commodity expertise; geographic developments; economic, financial, and legal analysis; and environmental and other competitive issues is maintained by

undertaking 332 studies for which there usually are no investigative precedents. The work of individual staff members is of a multidimensional nature; there are no offices or staff assigned exclusively to 332 investigations. The conduct of 332 studies allows the Commission to develop needed expertise and maintain our ability to be responsive in providing objective and in-depth analysis.

Three suggestions arise as to how we could cut down on the number of Section 332 studies. First, reductions, if any, should first be in those requested 332s considered "recurring reports," rather than the more substantive fact-finding investigations. Examples include Congressionally requested or mandated reports on footwear (\$11,757 in FY-94), autos (\$17,328), steel (\$107,310), synthetic organic chemicals (\$271,214), tomatoes (\$74,172), peppers (\$39,172), CBERA (\$134,835), or the Andean Trade Preference Act (\$126,643). These reports were initiated as a direct result of Congressional requests or legislative mandate.

Second, there is an opportunity for Congress and the President to seek Commission assistance on industry and regional trade issues through avenues other than a formal section 332 investigation. In particular, as part of the Commission's strategic planning process, we are attempting to increase assistance in the form of "quick response" research and analyses through staff-to-staff assistance. There may be many instances where a full 332 investigation, with public notice, hearings, and questionnaires are not required, but for which our analysts and economists can provide the required information and analysis based on the Commission's resident expertise and our extensive contacts in the trade community. Not only would such responses be much quicker, they would be less expensive as well. Informal staff responses generally are not an option when the nature of the request is such as to require extensive staff research and public input.

And finally, while not cutting down on the <u>number</u> of 332s, we are attempting to cut down on the costs of 332s, through such means as--

- Working closely with the requestor in the formulation of the scope of the request to keep it as focused as possible
- scope of the request to keep it as focused as possible.

  Putting sunset dates on all 332 requests calling for a series of reports.
- Maintaining specialized staff expertise on industry and trade issues which provide efficiencies in the production of 332 studies.
- Continue to streamline Commission reports to provide responses in the most concise and user-friendly format for the requestor and in a manner that minimizes publication and other costs.
- Purchase specialized databases and consultants in the limited instances where this would be more cost efficient than developing the data/expertise in-house.

#### Ouestion No. 3:

In your written statement, you indicate that the Commission expects an increase in your agency's workload as a result of passage of the Uruquay Round Agreements Act last year. Could you please discuss where such additional work will be required. Did the Commission experience an increase in its workload from the passage of the NAFTA?

#### Response:

The Commission expects an increase in its workload as the result of the passage of the Uruguay Round Agreements Act principally in its implementation of the requirement for sunset review for antidumping and countervailing duty orders every five years. This means that every investigation that leads to an order will also lead to at least one sunset review five years after it is imposed (and every five years thereafter until it is revoked). Moreover, the 334 outstanding antidumping and countervailing duty orders will have to be reviewed as part of a transition process. The Commission is also required to conduct, upon request of domestic interested parties, injury investigations in FY 1996 and 1997 for the 46 outstanding countervailing duty orders that were originally imposed without an injury finding.

The implementation of the NAFTA did not involve the creation of any new Commission investigative responsibilities of this order of magnitude. That agreement involves imports from only two countries and the post-NAFTA investigative requirements are limited to special NAFTA safeguard provisions which have yet to be invoked. The Uruguay Round implementation will almost double the Commission's title VII workload during the three year transition period beginning in FY 1998 and, at a minimum, increase the Commission's title VII caseload by at least 30 percent in non-transition periods.

Moreover, the Commission anticipates an immediate increase in the appellate workload for its General Counsel staff. As with passage of any major amendments to the law, the number of determinations appealed is likely to increase until the interpretation of the new statutory provisions becomes more settled. Likewise, with the new WTO agreements, the Commission believes that there may be an increase in the number of WTO disputes involving Commission determinations. While USTR represents the Government in these disputes, the Commission's Office of General Counsel provides substantial technical support to USTR in defending Commission action.

The CFTA (and, subsequently, NAFTA) dispute settlement procedures resulted in little increase in litigation work for the Commission; appeals involving Canada (and subsequently Mexico)

that were previously heard in the US courts are now heard by binational panels. In contrast, all WTO members may file disputes challenging agency action. Moreover, these disputes do not replace but are in addition to appeals hear by the US courts. Therefore, they involve substantial additional work.

#### Ouestion No. 4:

The Commission is currently required to produce a number of recurring reports. Indeed, 72 FTEs and over \$7 million are allocated for this purpose. Are all of these recurring reports still necessary? For example, 7 FTEs are dedicated to producing synthetic organic chemicals reports. Should not this activity be done by the industry itself and not financed by the taxpayer?

#### Response:

Under the budget activity "recurring reports and services," the Commission provides a wide range of reports and services to the Congress, the President, and the trade community. Included in this activity are 20 recurring report series; the attached document provides for each series a brief profile of the reports, including origin, purpose, and the loss of information, if any, that would occur if the series were discontinued.

It is recommended that the first reductions be made in those requested 332 studies that are considered "recurring reports". Several of those reports such as the Caribbean Basin Economic Recovery Act: Annual Report and the East-West Trade Report could be eliminated immediately or sunset. Other recurring reports such as the Economic Impact of the Andean Trade Preference Act, the U.S. Auto Industry Monthly Reports and the Commission's Industry and Trade Summaries could be produced less frequently.

Many of the recurring reports produced by the Commission clearly benefit special interests and could be produced by the industry itself. Such reports as Synthetic Organic Chemicals, Rum, Nonrubber Footwear, U.S. Auto Industry, and Steel have been requested by either Ways and Means or Finance and can only be discontinued if the Commission is so directed. Other special interest reports such as Monitoring of U.S. Imports of Tomatoes and Peppers, and Ethyl Alcohol for Fuel Use are statutory.

The Commission believes that resources to continue producing its technical and analytical reports such as the Economic Effects of Significant U.S. Import Restraints; the Operation of the Trade Agreements Program (OTAP); Industry, Trade and Technology Review; and Trade Shifts in Selected Industries should be preserved. These reports embody state-of-the-art economic research and are widely used by the Administration and trade policy experts.

It is important to note that a significant amount of the work in recurring reports is basic research required to maintain a proficient level of trade expertise which the Commission has found essential in its statutory investigative roles and in apprising USTR, the Congress, other government agencies, and diverse private sector organizations of global industry trends, regional developments, and competitiveness issues.

#### Ouestion No. 5:

What programs, if any, has the ITC instituted in recent years to make itself a more productive and cost effective organization.

The ITC, as an independent and bipartisan agency, has voluntarily been responsive to the requirements of the National Performance Review and the President through the development of a Streamlining Plan, Customer Service Standards, and a Strategic Plan. It has also been responsive to the President's September 11, 1994 memorandum and E.O. 12839 for FTE reductions as outlined by OMB.

We are in the process of finalizing a Strategic Plan which will be completed by March 30, 1995. This Strategic Plan and agency Action Plans will incorporate goals from our Streamlining Plan. We have already begun the process of studying agency processes and have conducted several reorganizations to reduce supervisory to employee ratios. Our FTE staffing level has been decreasing steadily over the past three years, from 486 in FY 1993 to 458 for FY 1996, and have already exceeded the reductions proposed by OMB through FY 1996.

#### ORGANIZATIONAL STREAMLINING:

The following illustrates some of the ITC's organizational streamlining:

- The Office of Industries was reduced from 7 to 4 divisions. The reasons for the new structure were to reduce the number of middle managers and consolidate some of the support functions in light of reductions in staffing. In summary, the office has dropped one SES position, three GS-15 division chief positions, and one GS-14 branch chief position (a 22% decline in overall management). Over the same period of time the total office has gone from an authorized level of 144 to 125 persons, (a 13% reduction in staff).
- The Office of Tariff Affairs and Trade Agreements has undergone substantial organizational and personnel changes. The staff was reduced over a period of years from 24 in FY 1990 to 16 in 1995. This has required a streamlining of work processes. One Division was

abolished and the employees were reassigned to another Division, eliminating a Division Director position and increasing the employee to supervisor ratio. There is another reorganization proposal under consideration that would eliminate the remaining divisions of the office, thereby resulting in a further reduction of middle management.

- The Office of Unfair Import Investigations has been reduced in staff from 18 in FY 1992 to 15 in FY 1995.
   As a result they have continually looked for ways to streamline processes.
- In the Office of Information Services there have been several reorganizations. The first was in 1993 when the Office of Information Services was transferred to the Office of Operations. In 1994 the Office of Information Services was combined with the Library and Statistical Services Division. We are currently in the process of eliminating two out of three supervisory positions in the Library. From 1992 to the present the Library has had a one third reduction in staff with no decrease in workload. Over the next months we will be studying what functions might be contracted out. More recently the Editorial staff was transferred to this organization, eliminating a supervisor. This action consolidated all functions concerned with information.

We are in the process of studying the overall Office of Information Services to determine what is most efficient and cost effective. We have recently moved two Divisions together and eliminated one management position thereby increasing the employee to supervisor ratio to 1 to 18.

 The Office of the General Counsel has reduced staff by four attorneys and one paralegal since 1993 while services have expanded. They, however, are in an area where we have projected growth because of the Uruguay Round legislation.

#### PROCESS STREAMLINING:

The following illustrate some of the streamlining efforts in ITC's programs:

 When a request for an investigation under section 332(g) is anticipated from Ways & Means, Finance, the President, or USTR, the Commission staff always seeks an opportunity to comment on the draft requests; staff works with requestors to ensure that the studies are as focused as possible so that the Commission can provide the needed information in the most cost effective manner. Staff also seeks to have sunset dates included in all requests likely to require recurring reports.

- Commission staff seeks whenever possible to provide information to the USTR and Congress on an informal staff-to-staff basis without the institution of a formal 332 investigation. This approach is used particularly when the turn-around time for the information is short and no formal proceeding and report are desired. This approach also avoids the costs associated with a formal section 332 investigation and possible published report.
- The Commission has sought to develop specialized expertise in specific individuals in a variety of aspects of competitiveness which should in the long run provide efficiencies in the production of 332 studies. Specifically, the Commission has built and continues to build, expertise in antitrust/competition policy, intellectual property rights, labor standards, market access barriers, and the environment. It has also sought to enhance its in-house capability to assess economy-wide consequences of changes in trade policies and industry performance.
- Section 332 staff has a long history of streamlining efforts to present study findings in the most concise and user-friendly format for the requestor and in a manner that minimizes publication and other costs. For example, when feasible, staff, with the assistance of the requestor, has developed standardized or tabular formats in lieu of lengthy text.
- Where necessary and on a limited basis, we have purchased databases in order to meet the needs of the requester. This has been done only where staff either could not recreate the database or would have to expend extensive Commission resources to do so.
- When legislation for specific section 332 studies is introduced in Congress, the Commission reviews the proposal to ensure that it accurately describes the product that the drafter seeks and that it is within the Commission's ability to complete. This helps ensure the most efficient use of Commission resources.
- Staff periodically communicates with USTR and Congressional staff regarding ongoing recurring reports to determine whether such reports continue to be needed.

- In fiscal year 1993, a radical streamlining of the coverage of the Operation of the Trade Agreements Program (OTAP) report was proposed, approved, and implemented.
  - o A 1/3 reduction in OTAP's length was accomplished by eliminating redundant material, unnecessary "boilerplate" and coverage of marginal and "no action" issues.
  - o Nearly 1,000 fewer work hours was spent annually on producing the 1992 and 1993 editions of the OTAP report than was spent on the 1991 edition (issued prior to the change).
- Since 1991, the Commission has made several important modifications to the East-West report to reflect the rapid political and economic changes occurring in these countries, resulting in continuous streamlining of the report. Most recently, the Commission scaled back the content of the East-West report to what we regard as the minimum required by law. Text analysis was removed and the reports became statistical reports.
  - o Costs of producing the report have been halved as a result of the latest change.

#### Research methods

- The Commission has changed the way it approaches the requirement to report annually on the Caribbean Basin Economic Recovery Act (CBERA) and Andean Trade Preference Act (ATPA). A single team has been assigned to draft both reports, whose coverage will be harmonized and streamlined. Some immediate cost savings will be possible this year, while longer-term savings are anticipated once the changeover is firmly in place:
  - o CBERA and Andean travel were combined, in order to economize on the major element of travel cost: the round-trip from Washington.
  - o A staggered multi-year travel schedule was adopted, reducing the number of countries visited in each region each year.
  - o The Commission is working closely with the Department of State to improve coordination on fieldwork and the responsiveness of Embassy reports, both primary inputs into our analysis.

o Review layers have been combined or eliminated for the CBERA/Andean, OTAP, and East-West reports.

#### Production and Distribution

- In an effort to reduce printing and mailing costs:
  - o Increased attention has been given to re-validation of mailing lists to ensure excess reports are not printed or mailed. To further reduce distribution costs, the Superintendent of Documents now sells those Commission reports that meet the Superintendent's public demand criteria. Although the Commission pays for the printing of the sold reports and no part of the proceeds received by the Superintendent are given to the Commission, such sales reduce Commission mailing costs and provides revenue to the government as a whole.
  - o The Commission is currently examining the feasibility of making reports available to the public electronically via the GPO Federal Bulletin Board, the National Trade Data Base, ITC bulletin boards, Internet, and other electronic modes. Use of such modes should eventually make reports more quickly available to a wider audience and may also reduce Commission printing and mailing costs.
- New publishing technology has been acquired which allows us to print reports based on actual demand, rather than by estimate. This has resulted in a reduction of three positions in the printing operations, and has allowed the Office of Administration to reduce middle management by 32%.
- Consideration is being given to purchasing and designing an imaging system. This would probably result in the elimination of part-time or temporary personnel to maintain a research data base of materials and should make research efforts more efficient and reduce the paper handled and stored. The Office of the Secretary, the Office of Unfair Import Investigation, the Office of the General Counsel and the Office of Administration will benefit from this system, if obtained.

#### OTHER STREAMLINING:

 The Office of General Counsel has created automated systems to increase productivity and accomplish cost efficiencies. The Office is reorganizing support staff functions and providing cross-training to law librarians, secretaries, and paralegals to assure that full service can be maintained with reduced resources and that tasks can be allocated in the most cost-efficient manner to support the productivity of legal personnel.

- The Office of Information Services is in the midst of downsizing the agency's present mainframe-based international trade database to a client-server system that will save significant costs over the 5-year lifecycle while providing better, faster and more reliable statistics to agency analysts. We are working with other agencies on the NPR's IT-06 initiative (Develop an International Trade Database) to deliver this information to the public and reduce redundancy across the Federal government in developing and reporting these key data.
- The Office of Finance and Budget is in the midst of consolidating all financial systems currently operated on three separate systems at three separate locations to a single system in one location to be more efficient and cost effective. This will also provide the added benefits of "paperless" systems and improved information.
- While the ITC staffing levels are being reduced, the agency is also taking positive action to downsize related support costs. One example of this is the removal of telephone lines, resulting in a projected cost savings of approximately \$100,000 in FY 1995.

Exhibit A

### USITC RECURRING REPORTS UNDER SECTION 332 AND OTHER PERIODIC COMMISSION REPORTS

The Commission produces a wide variety of recurring reports formally requested by the President or the Congress, or required by stanute. In addition the Commission produces a number of periodic monitoring and technical trade reports undertaken on its own initiative, in large part because of Congressional and general public interest in these issues.

A significant amount of the work in recurring reports is basic research required to maintain a proficient level of trade expertise which the Commission has found essential in its statutory investigative roles and in apprising USTR, the Congress, other government agencies, and diverse private sector organizations of global industry trends, regional developments, and competitiveness issues. These reports, particularly the self-initiated reports, are generally a by-product of the investigative and monitoring activities of the Commission's economists and industry analysts. Even if the reports are cut or eliminated, much of this work must still be done to maintain our readiness/capability to respond to the short investigative deadlines we must meet by law. Eliminating these reports could actually have the effect of increasing costs, in that these reports provide an efficient way to respond to the many questions we receive on trade issues.

A summary of each report follows. For convenience in examining the reports, they have been grouped into four categories.

Statutory
CBERA
Ethyl Alcohol
Tomatoes
Peppers
Andean Trade
OTAP
East-West Trade

IER's

Special interest SOC Rum Footwear Autos Steel

USTR assistance Import Restraints GATS Services Monitoring/Technical
Production Sharing
Multifiber Agreement
Trade Shifts
Industry Summaries
ITTR's
IER's

Reports that could be produced less frequently
East-West Trade
SOC
Footwear
Autos
Steel
Import Restraints
Industry Summaries
ITTR's

Reports with sunset provisions Tomatoes (2009) Peppers (2009) Steel (April 1995)

#### STATUTORY REPORTS

TITLE: Caribbean Basin Economic Recovery Act: Annual Report (332-227)

FREQUENCY: Annual (no sunset)

REQUESTOR: CBERA INITIATION: 3/21/86 FY-94 COST: \$134,835

NO. PRINTED IN FY-94: 1.833

ORIGIN/PURPOSE.—This report series was mandated by the Caribbean Basin Economic Recovery Act (CBERA) [Public Law 98-67, title II]. The law set up a series of one-time duty reductions for certain Caribbean and Central American countries. The reductions were nonreciprocal and were to last for 10 years. The law contained no sunset provision, and when the CBERA was modified in 1990' to eliminate the scheduled 1993 termination date, both the duty reductions and the reporting requirement became permanent.

The annual report analyzes trade with the Caribbean Basin focusing on imports entering under CBERA tariff provisions. It also addresses the statutory mandates of analyzing the impact of the CBERA on U.S. industries and consumers, and estimating the probable future effects of the Act on the U.S. economy. The ninth report, issued September 1994, contained a retrospective on CBERA's first ten years of operation.

INFORMATION LOSS IF DISCONTINUED.—The report is the only U.S. Government source that analyzes the effect of the CBERA program on U.S. industries, consumers, and trade. Its particular service lies in its potential to identify any U.S. industry/product that might be threatened by CBERA tariff preferences. In the absence of this report, the objective analysis of the effects of the CBERA program provided by the Commission would be unavailable. The Department of Labor is required by the statute to report annually on the impact of the CBERA on U.S. employment. The Office of the U.S. Trade Representative was required by the 1990 Act to report triennially on the CBERA program. However, only the ITC compiles and systematically presents data on U.S. imports under the CBERA program, assesses their impact on U.S. industries and consumers, and identifies prospective imports. The USTR report does include a chapter on trade between the United States and CBERA countries, but it draws largely upon the annual reports of the ITC. The ITC report also contains a unique survey of CBERA-related investment that helps us flag potential imports under the program. (Commerce no longer collects such data.)

**COMMENT**.-A sunset provision could be added to the statute.

<sup>&</sup>lt;sup>1</sup> Customs and Trade Act of 1990, Public Law 101-382, title II, 104 Stat. 629, 19 U.S.C. 2101 note.

TITLE: Bibyl Alcohol for Fuel Use: Determination of the Base Quantity of Imports (332-288)

FREQUENCY: Annual (no sunset)

REQUESTOR: Steel Trade Liberalization Act

INITIATION: 3/9/90 FY-94 COST: \$5,324

NO PRINTED IN FY-94: 10

ORIGIN/PURPOSE.—This report is required by the Steel Trade Liberalization Act, which requires the USTIC to determine annually the U.S. domestic market for fuel ethyl alcohol. The report is provided to the U.S. Customs Service which uses the number generated in the report to establish the "base quantity" of imports that can be imported with a zero percent local feedstock requirement.

INFORMATION LOSS IF DISCONTINUED.—The data for this report are from published sources: the Department of Energy and the Department of Commerce. The report is, however, very low

TTTLE: Monitoring of U.S. Imports of Tomatoes (332-350) and Peppers (332-351)

FREOUENCY: Annual (sunset in 2009)

REQUESTOR: NAFTA

REQUESTOR. NAPETA INITIATION: 12/30/93 FY-94 COST: \$74,172 (Tomatoes) \$39,172 (Peppers) NO. PRINTED IN FY-94: 1,182 (Tomatoes) 1,182 (Peppers)

ORIGIN/PURPOSE.—Section 316 of the North American Free-Trade Agreement Implementation Act (NAFTA Implementation Act) requires the Commission to monitor imports of fresh tomatoes and fresh peppers until January 1, 2009, for purposes of expediting a request for provisional relief from imports of a perishable agricultural commodity. Section 316 of the NAFTA Implementation Act was added to get Florida Congressional support for the passage of the NAFTA Implementation Act. (The producers of tomatoes and peppers in Florida are not the originators of section 316.) Although the stante does not require the Commission to publish reports on the monitoring, the Commission issued reports after the first year of monitoring staining "... it would be useful to inform the Congress and the public of the progress we are having in implementing section 316." The reports are statistical and costs associated with publishing the data are minimal.

INFORMATION LOSS IF DISCONTINUED.—The reports covering the first year of monitoring included data on responses to Commission questionnaires. The methodology has been modified so that questionnaires are no longer being used, thus greatly reducing the costs of the monitoring. All of the data currently being used in the monitoring are public data from a variety of sources. A cessation of the monitoring would preclude the domestic industry producing fresh tomatoes or fresh peppers from filing a petition (under section 202 of the Trade Act of 1974 or section 302 of the NAFTA implementation Act) for provisional relief from imports. The provisions for provisions imports provisional relief from imports. import relief require the Commission to make a preliminary injury determination within 21 days of the receipt of a petition for relief, and if that determination is affirmative, to recommend the appropriate provisional relief. The regular section 201 relief from imports would be too late to provide meaningful relief for producers of perishable agricultural products during the current year.

The monitoring reports prepared by USITC staff show the progress the staff makes every year on collecting the data required under the NAFTA Implementation Act for monitoring purposes. The reports are sent to industry representatives, Congressional Committees, and the USTR.

#### TITLE: Reconomic Impact of the Andean Trade Preference Act (332-352)

FREQUENCY: Annual (no sunset)

REQUESTOR: Andean Trade Preference Act

INITIATION: 2/17/94 FY-94 COST: \$126,643

NO. PRINTED IN FY-94: 786

ORIGIN/PURPOSE.—Report series was mandated by the Andean Trade Preference Act (ATPA) [Public Law 102-182, title II Stat. 1236, 19 U.S.C. 3201 et seq.] The law authorized the President to proclaim preferential duty treatment for certain articles from Bolivia, Colombia, Ecuador, and Peru. The preferential treatment is scheduled to expire on December 4, 2001. There is no sunset provision included in the law. If the duty treatment were to be extended or made permanent, as happened with the CBERA, the annual reporting requirement would likely continue. The USITC has submitted only one report in this series. The second report is acheduled to be transmitted to the Congress on September 30, 1995.

The annual report analyzes trade with the ATPA beneficiary countries in the year under review. It also addresses the statutory mandates of reporting on the impact of the ATPA on U.S. industries and consumers, and estimates the probable future effects of the Act on the U.S. economy. In addition, the Act requires the Commission to report on the ATPA's "effectiveness ... in promoting drug-related crop eradication and crop substitution efforts" in the region.

INFORMATION LOSS IF DISCONTINUED.—The report is the only U.S. Government source that analyzes the effect of the ATPA program on eligible U.S. industries and trade. Its particular service lies in its potential to identify any U.S. industry/product that might be threatened by ATPA tariff preferences. In the absence of this report, the objective analysis provided by the Commission would be unavailable. The imports under the ATPA program are fully identified, examined, analyzed, and published by the ITC. The Office of the U.S. Trade Representative completed its first triennial report on the operation of the ATPA, as required by section 203 (f) of the statute, in February 1995. The USTR report focuses on different aspects of the program, specifically, factors affecting the designation of countries and limitations on the designation as well as consideration of the certification criteria regarding narcotics cooperation. The statistical tables in the USTR report are drawn directly/duplicated from those contained in the annual USTTC report.

COMMENT. - A sunset provision could be added to the statute.

TITLE: Operation of the Trude Agreements Program (OTAP) Report (also known as Year in Trade)

FREQUENCY: Annual (no sunset)
REQUESTOR: Section 163(b) of the Trade Act of 1974 (current authority).

INITIATION: 1947
FY-94 COST: \$192,000 (represents personnel costs only).

NO. PRINTED IN FY-94: 1,591

ORIGIN/PURPOSE.—Since 1947, the ITC has been required to annually report on the operation of the trade agreements program; present authority is found in Section 163(b) of the Trade Act of 1974.

OTAP provides a factual record of U.S. bilateral, regional, and multilateral trade agreements, and the administration of U.S. trade laws, regulations, and programs. It assesses the progress of the trade agreements program launched in 1934 and serves as a principal reference tool to Congress, the President, and the trade policy community generally.

The 1994 OTAP will cover WTO implementation, NAFTA's first year, the APEC Ministerial and Summit of the Americas, the peso crisis, GATT accession talks with China, the U.S.-Japan Framework Agreement, CBERA and ATPA, and similar topics.

<u>INFORMATION LOSS IF DISCONTINUED.</u>—Since passage of the Trade Expansion Act of 1962, the President has also been required to annually report on the operation of the trade agreements program. However, owing to the Commission's non-partisan structure, the ITC report is an independent account of U.S. trade activities. The comprehensive coverage and detailed independent account of U.S. trade activities. The comprehensive coverage and detailed documentation of the ITC report is also unique. For example, the ITC report includes statistical tables on U.S. imports under trade preference programs (GSP, CBERA, Andean) as well as complete listings of antidumping, countervailing-duty, intellectual property right infringement, and Section 301 cases. In addition it lists countries that have ratified the WTO, members of GATT non-tariff barrier codes, countries with which the United States has textile agreements and quota levels, antidumping actions by other nations, and important disputes accepted by the GATT for resolution. These are not included in the USTR report or readily available elsewhere.

Other USG reports provide some bilateral trade and economic information:

- USTR, "National Trade Estimate Report on Foreign Trade Barriers"
  Dept. of State, "Country Reports on Economic Policy and Trade Practices"
- •
- ITA/DOC, "Country Commercial Guides"

These reports focus on cataloging foreign barriers to U.S. commerce, whereas the ITC report describes issues under negotiation, U.S. and foreign positions and actual agreements achieved each year. The ITC report provides full cites to primary and valid secondary sources. This historical record permits tracking of progress and important documents (e.g., the trade agreements reached with Japan) over a number of years.

<u>COMMENT</u>...The ITC OTAP report provides in-depth and objective coverage, making it a "one-stop" reference source for the most sought after and difficult to find information on U.S. trade and trade agreements. Over the last two years, steps have been taken to streamline the report and improve its usefulness, making it one-third shorter. We continue to evaluate coverage to identify further economies.

#### TITLE: Rest-West Trade Report

FREQUENCY: Quarterly (no sunset)
REQUESTOR: Trile IV, section 410 of the Trade Act of 1974

INITIATION: 1974
FY-94 COST: \$77,000 (represents personnel costs only).
NO. PRINTED IN FY-94: 530/quarterly report

ORIGIN/PURPOSE.—Title IV, section 410 of the Trade Act of 1974, requires the Commission to monitor the flow of imports and exports between the United States and "nonmarket economy" countries and to publish a detailed summary of the data collected each calendar quarter. In addition, Title IV specifies that the Commission monitor the effect of imports from these countries on output and employment in the United States. To fulfill this requirement, the Commission developed an sutomated trade-monitoring system to identify rapidly growing imports of manufactured goods from the countries covered by these reports and to measure the penetration of such imports in U.S. markets.

Each quarterly report provides detailed trade data on the following countries: Albania, Armenia, Azerbaijan, Belarus, Bulgaria, Cambodia, China, Cuba, Georgia, Kazakhstan, Kyrgyzstan, Laos, Moldova, Mongolia, North Kores, Romania, Russia, Tajikistan, Turkmenistan, Ukraine, Uzbekistan,

INFORMATION LOSS IF DISCONTINUED.—Trade data published by this series of reports are available from the U.S. Bureau of the Census. However, to the best of our knowledge, the Commission is unique in maintaining and running a trade monitoring system to flag rapid growth of imports from the countries covered by these reports and to compare the results with data on output and employment in domestic industries. The monitoring system is run once a year; an annual East-West report identifies changes in output and employment in U.S. industries where the monitoring system indicates rapid growth of imports.

<u>COMMENT</u>.—Since 1991, the Commission has made several important modifications to the East-West report to reflect the rapid political and economic changes occurring in these countries, resulting in continuous streamlining of the report. In 1993, the Commission supported a move by the House Ways and Means Committee and the Senate Committee on Finance to consider legislation that would repeal the requirement that the Commission continue producing this report series. No final action was taken on this legislation, however. Because the Commission's oversight committees are seeking to repeal the requirement, the Commission scaled back the content of the reports to what we regard as the minimum required by law. In essence, text analysis was removed and the reports were converted to statistical reports.

#### SPECIAL INTEREST REPORTS

TITLE: Synthetic Organic Chemicals (332-135)

FREQUENCY: Quarterly and Annual (no sunset) REQUESTOR: Ways & Means INITIATION: 2/1/82 FY-94 COST: \$271,214

NO. PRINTED IN FY-94: 2,150 (annual) 550/quarterly report

ORIGIN/PURPOSE.—The Synthetic Organic Chemicals (SOC) Reports, an annual report and 4 quarterly reports, were requested by the Committee on Ways and Means (Sam M. Gibbons) on April 27, 1988. The reports are used by the public and private sectors. When previously questioned, the production of the reports was supported by phone calls and written correspondence from individual companies, particularly chemical companies, industry trade associations, and various Government agencies including: OMB, EPA, Interior, Labor, Commerce, and Treasury. The data are also included in UN publications.

INFORMATION LOSS IF DISCONTINUED.—The chemical production and sales data in the reports are the result of a primary data collection effort wherein the data are secured from manufacturers by are me resurt or a primary data collection effort wherein the data are secured from manufacturers by questionnaires. No other Government agency collects or is authorized to collect such primary chemical data. The Census Department does not collect such chemical data in its "Survey of Manufacturers", but instead uses the data published in the SOC Reports. The primary data are presented in the reports in aggregated eo nominee form for approximately 1200 individual chemicals and for another 4800 chemicals in grouped form to avoid the divulgence of confidential business information. Without the SOC Reports production and sales data for approximately 6000 chemicals would be unavailable to public or private users.

<u>COMMENT</u>.—The frequency of the quarterly reports could be reduced to twice per year. While this periodicity is not preferred, it would still provide users with a bench mark indicator of the state of the chemical industry over the course of the year.

TITLE: Rum: Annual Report on Selected Economic Indicators (332-175)

FREQUENCY: Annual (no sunset) REOUESTOR: Senate Finance INITIATION: 1/13/84 FY-94 COST: \$2,853 NO. PRINTED IN FY-94: 237

ORIGIN/PURPOSE.—On December 21, 1983, Senator Bob Dole, then Chairman of the U.S. Senate Committee on Finance, sent a request to prepare and publish an annual report evaluating the effects of the Caribbean Basin Initiative (CBI) on conditions of competition for rum in the U.S. market. The report is distributed to rum producers primarily in the US Virgin Islands and Puerto Rico, rum bottlers and wholesalers, and industry representatives who use the report to monitor developments under the CBI.

INFORMATION LOSS IF DISCONTINUED. -Discontinuation of the Rum Report will result in information becoming unavailable to the public in several areas. The Rum Report is the only conveniently-available source of reliable rum production data on a calendar year basis; adjusted for production levels of the U.S. Virgin Islands (USVI) and Puerto Rico; adjusted for possible doublecounting from production-sharing operations; converted into consistent units of measurement; and adjusted for changes in stocks.

COMMENT.-Senator Dole's 1983 letter requested that the Rum Reports should continue annually for as long as duty-free treatment for rum is accorded to members of the Caribbean Basin Recovery Act.

TITLE: Nonrubber Footwear: Quarterly Statistical Reports (332-191)

FREQUENCY: Quarterly (no sunset) REQUESTOR: Senate Finance

INITIATION: 8/28/84 FY-94 COST: \$11,757

NO. PRINTED IN FY-94: 260/quarterly report

ORIGIN/PURPOSE.—These quarterly reports are published under section 332 in response to a request from the Senate Finance Committee to monitor footwear. The Footwear Industries of America were behind the request and are strongly in favor of keeping the report. Mitch Cooper, counsel for rubber footwear producers, is also a strong supporter of the report.

INFORMATION LOSS IF DISCONTINUED. - Almost all the raw data used to generate these reports are already available to the public. However, the data are for the most part umusable in their raw state and must be massaged together to facilitate comprehension of conditions in the footwear industry. Moreover, the data are gathered from different agencies and also from different offices within a given agency. For example, one has to call different offices within BLS for data on employment, unemployment, producer prices, and consumer prices. The only data in the ITC report that are not readily available to the general public are plant closings and openings that we obtain from Footwear Industries of America, a trade association for U.S. footwear firms. Data on plant closings/openings are published only on an annual basis and are included in the reports covering the fourth quarter of each year.

COMMENT.-This report is already low cost. In order to cut costs further the quarterly footwear report could be converted to an annual report and published in March or April of each year.

TITLE: U.S. Auto Industry: Monthly Reports (332-207)

FREQUENCY: Monthly (no sunset) REQUESTOR: Ways & Means INITIATION: 3/6/85 FY-94 COST: \$17,328

NO. PRINTED IN FY-94: 460/monthly report

ORIGIN/PURPOSE.—On February 12, 1985, the Commission received a request from the Subcommittee on Trade to conduct monthly monitoring reports of the U.S. automobile industry. The primary purpose of the request was to monitor the rising import share of the U.S. market for automobiles.

INFORMATION LOSS IF DISCONTINUED.—The breakdown of trade data by product (passenger autos and light trucks) and the detail on import sources and export markets are the key elements of the report. These data should also be available in a similar form from the Department of Commerce; however, many requestors have indicated that this is not an option if their need is immediate. In addition, to reproduce the bulk of the rest of the report, one would have to search the latest weekly editions of <u>Automotive News</u> for sales, production, and certain price data; and call the Department of Labor for current employment information and consumer and producer price data.

<u>COMMENT</u>.—The report is the most efficient way to distribute the aforementioned trade data to the public and other government agencies. Recipients of the report have stated a strong preference for continuing to receive it on a monthly basis, however, the frequency of the report could be reduced. The cost of the report can be reduced significantly by limiting its content to trade data.

TITLE: Steel: Semi-Annual Monitoring Reports (332-327)

FREQUENCY: Semi-annual (sunset in April 1995) REQUESTOR: Ways & Means INITIATION: 7/9/52 FY-94 COST: \$107,310 NO. PRINTED IN FY-94: 800/semi-annual report

ORIGIN/PURPOSE.-The Committee on Ways and Means, in conjunction with interest by the House and Senate Steel Caucuses, and the steel industry, requested concise, objective analysis of global industry trends and topical competitive issues in the aftermath of the expiration of the Voluntary Restraint Agreements and the collapse of negotiations for a Multilateral Steel Agreement. A sunset date of April 1995 was established for the semiannual series, scaled back from the prior quarterly reports. The ITC is in the process of contacting requestors for advice on the desirability of extending, modifying, or concluding the semiannual report.

INFORMATION LOSS IF DISCONTINUED.—The principal industry users have told us that this impartial assessment in areas of technology and operating performance, and factors affecting the steel industry's competitive standing, is not available elsewhere, and that the industry data and international comparisons are more readily accessible than other sources. Specifically, data generated by ITC questionmaires provides unique product line information on capital expenditures, research and development, environmental expenditures, capacity, production, capacity utilization, profit and loss, and general information on export activities. Although the Commission's compilation of raw steel production, product line shipments environmental costs, and the production of the steel production product line shipments environmental costs, and the income straight are satisfale. production, product line shipments, environmental costs, and the income statement data are available from other sources, our coverage of the industry is generally superior and enables an objective assessment of industry developments.

<u>COMMENT.</u>—These reports could be converted to an annual report. These reports facilitate a quick turnaround in addressing diverse Congressional, Executive agency, and public inquiries that otherwise might go unmet or would require significantly more time and effort when such requests are received.

<sup>&</sup>lt;sup>2</sup> Sources of similar data include the American Iron and Steel Institute, the Environmental Protection Agency, and the US Department of Commerce. Most of these sources provide proxy data or more general data from which estimates would have to be made to replicate our data.

#### USTR ASSISTANCE REPORTS

TITLE: The Economic Effects of Significant U.S. Import Restraints (332-325)

FREQUENCY: Bi-annual (no sunset)

REQUESTOR: USTR INITIATION: 6/5/92

COST: Approx. \$200,000/year [The first biannual report had a total cost of \$399,000 and spanned

parts of FY-92,-93,&-94.] NO. PRINTED IN FY-94: 1,456

ORIGIN/PURPOSE.—This report series began in 1989 as three individual studies—manufacturing, agriculture, and services—performed in response to a request of the Senste Finance Committee made under section 322(g) of the Tariff Act of 1930. The United States Trade Representative (USTR) found the original studies extremely useful and consequently requested in 1993 that the ITC consolidate and update the three studies and accomplish this bianzually thereafter. There is no sunset provision in the USTR request. The next Import Restraints Report is scheduled to be delivered in November 1995.

The biannual report quantifies the impact of U.S. import restraints on the domestic economy utilizing a computable general equilibrium (CGE) model of the United States that was developed and is maintained in-house by ITC economists. The report analyses the inter-industry relationships among U.S. economic sectors. It provides estimates of the effects on production, employment, exports, imports, and real consumer incomes of current U.S. tariffs, quotas, and other import restraints on an industry-by-industry basis. This modeling framework provides for a consistent, comprehensive analysis of import restraints.

INFORMATION LOSS IF DISCONTINUED.—The Import Restraints Report is the only recurring, bipartisan U.S. Government analysis of the effect of U.S. import restraints on the domestic economy that embodies state-of-the-art economic research. The ITC CGE model is entirely unique, and its accompanying database provides the greatest U.S. sectoral detail that is available anywhere. The comprehensive nature of the model provides an economy-wide context for the analysis of pending trade issues. The ITC CGE model includes a U.S. component representing a 500 sector depiction of the domestic economy, and a global component that emphasizes U.S. trading relationships with Latin American countries and countries of the Asian Pacific Economic Cooperation (APEC) region. The results of this analytical work are used on a regular basis by the Congress and by the Office of the President. For example, USTR uses the ITC model results in preparing for trade negotiations, in evaluating the tartiff equivalents of the agricultural quotas for the Urugusy Round, and in analyzing the potential impact of accession of countries to the North American Free Trade Area. In addition, the Council of Economic Advisors has used the ITC modelers' expertise in providing the basis for U.S. Government contributions to the OECD experts' working group on market access barriers.

<u>COMMENT</u>.—The original Import Restraints Report was a phased study—each phase completed sequentially, on an annual basis, over a three-year reporting cycle. This schedule was modified in 1993 so as to improve the quality of the report, and achieve production efficiencies—there is now a single, consolidated report done on a biannual basis.

TITLE: Services: U.S. Schedule of Service Commitments under GATS (332-354)

FREQUENCY: Update as required (no sunset)
REQUESTOR: USTR

REQUESTOR: USTR INITIATION: 5/13/94 FY-94 COST: \$72,630

NO. PRINTED IN FY-94: Hard copies produced by GPO; Commission distributes electronically.

ORIGIN/PURPOSE.—Investigation No. 332-354, Program to Maintain U.S. Schedule of Services Commitments, was initiated at the request of the U.S. Trade Representative in 1994. As a signatory to the General Agreement on Trade in Services (GATS), negotiated under the GATT, the U.S. Government is obligated to maintain and update the U.S. Schedule of Commitments, use at it is obligated to maintain and update the Harmonized Tariff System (HTS). The U.S. Schedule specifics market access, national treatment, MFN treatment, and other commitments regarding specific service industries.

INFORMATION LOSS IF DISCONTINUED.—If maintenance of the U.S. Schedule ceased, there would be no up-to-date list of the United States' commitments, and the United States would be in violation of the GATS. If the Commission eliminated this program, USTR would have to maintain the Schedule itself, or request that another agency maintain it. Eliminating this program would be analogous to eliminating the program to maintain the HTS.

<u>COMMENT.</u>—The cost of this report is expected to decrease by 20 percent over the next several years. The first year of the program required staff to construct an electronic database in which to store the U.S. Schedule and to learn new software packages with which to search and manipulate the Schedule.

#### MONITORING/TECHNICAL REPORTS

TITLE: Production Sharing under HTS Items 9802.0060 & .80 (332-237)

FREQUENCY: Annual (Commission reviews annually)

REQUESTOR: USITC INITIATION: 8/19/86 FY-94 COST: \$113,491

NO. PRINTED IN FY-94: 2,541

ORIGIN/PURPOSE.—This report, initially requested by the Congress, has been continued by the Commission on its own motion after periodic reviews of self-imposed sunset provisions. There is explains the use of U.S.-made components and materials in foreign assembly operations; such production sharing is an important strategy for many U.S. firms competing in the domestic market with labor-intensive products made by Asian producers.

INFORMATION LOSS IF DISCONTINUED.-The ITC provides data and analysis that would be absent without this report, including compilation of imports from the maquiladors industry in Mexico, the effects of NAFTA on U.S.-Mexico trade, the role of U.S. companies in the growth of export-oriented industries in the Caribbean Basin, and parity with NAFTA for textile and apparel imports from CBI countries. No other Government or private organization provides a periodic analysis, and the statistics are not available to subscribers or purchasers of standard data tapes (or analysis, and the statistics are not available to subscribers or purchasers of standard data areas (or CDs) from the Bureau of the Census. Such data are available only from special tapes that show imports under "secondary reporting codes." However, considerable programming is required by the Commission to cross-reference production sharing trade with data for total trade, to produce the country- and commodity-specific data needed to analyze issues of importance to the trade community.

TITLE: Multifiber Agreement: Annual Report (332-343)

FREQUENCY: Annual (Commission reviews annually)

REQUESTOR: USITC INITIATION: 6/15/93 FY-94 COST: \$3,738 NO. PRINTED IN FY-94: 289

ORIGIN/PURPOSE.—ID originally prepared the annual reports so as to respond quickly to numerous requests for data from congressional staff, other agencies, and the public in the 1980s when textile quota legislation and MFA renewal were under consideration. The report has since become an important research tool for researchers in both the public and private sector.

INFORMATION LOSS IF DISCONTINUED.—The ITC report is unique among the reports available on US trade in MFA goods. The user friendly report was tailored to meet the needs of the congressional staff and other agencies that called most often for textile and apparel import data. The congressions start and other agencies that care into them for texture and apparet importunity are report contains 4 years of quantity data, and also corresponding value data not readily available from other sources, for each of the nearly 150 product categories used by Commerce to administer the quota program. Without the ITC report, the public would not have ready access to quantity and value data covering imports by source country and by MFA product category.

<u>COMMENT</u>:—Continuation of the report for at least another 3 years will allow the Commission to monitor changes in trade patterns resulting from (1) the new rules of origin for textiles and apparel created by the Congress and contained in the Urugusy Round implementing legislation and (2) the 10-year phaseout of the MFA quota program contained in the same legislation.

TITLE: Trade Shifts in Selected Industries (332-345)

FREQUENCY: Annual (Commission reviews annually)

REQUESTOR: USITC

INITIATION: 8/27/93 (originally started in early 1980s as non-332 report)

FY-94 COST: \$154,67

NO. PRINTED IN FY-94: 1,434

ORIGIN/PURPOSE.—This report was developed by the Commission in response to Congressional interest in establishing a systematic means of examining and reporting on the significance of major trade shifts, by product and with leading U.S. trading partners, in the services sector and in all agricultural and manufacturing industries.

INFORMATION LOSS IF DISCONTINUED.—The ITC is uniquely qualified to maintain comparable import, export, trade balance, and industry profile data (domestic consumption, production, employment, and import penetration) in recent 5-year periods for nearly 300 major commodity groups examined in this report. The report was expanded in 1994 to examine U.S. services trade performance using limited data compiled by the U.S. Bureau of Economic Analysis, and to provide a baseline assessment of common factors affecting long-term trends in selected sectors. This capability cannot be replicated in the Government and reflects trade monitoring activity that is essential to maintaining the expertise enabling the ITC to respond quickly to diverse inquiries from the public, the Congress, and other agencies.

TITLE: Industry and Trade Summaries

FREQUENCY: Periodic industry-specific reports (no sunset)

REQUESTOR: USITC INITIATION: 1920: FY-94 COST: \$1,296,400

NO. PRINTED IN FY-94: Approx. 800 copies/summary

ORIGIN/PURPOSE.—The Commission has periodically produced "Summaries" throughout its existence as a principal mode of developing trade expertise and maintaining its readiness to fulfill its statutory investigative responsibilities in the time frames allowed by law. These reports are a byproduct of the monitoring activities of the Commission's industry analysts and provide the public at large and the U.S. Government with a reliable, systematic, and uniform source of information on domestic and foreign trade in the articles enumerated in the tariff structure of the United States. The current series (started in 1991) has published over 100 reports that analyze the competitive situation of U.S. industry.

INFORMATION LOSS IF DISCONTINUED.—A consolidated breakdown and analysis of industry trade, production, financial, employment, and related data would not be readily available elsewhere for many U.S. industries if the Commission were to cease publishing summaries.

<u>COMMENT</u>.—This program will decline in size as resources are increasingly devoted to Title VII investigations and staff levels are reduced. The program can be cut back by combining and/or eliminating summaries on certain industries, based on criteria of topicality, on the commission published 28 summaries in FY-93 and 30 in FY-94.

<sup>3</sup> This number represents 70% of the FY-94 actual amount as set forth on page 11 of the budget justification.

TITLE: Industry, Trade, and Technology Review

FREQUENCY: Quarterly (no sunset) REQUESTOR: USITC

INITIATION: 1992

FY-94 COST: \$251,000 (represents personnel costs only).

NO. PRINTED IN FY-94: 2300/quarterly report

ORIGIN/PURPOSE.—The Commission instituted the quarterly ITTR in October 1992 in response to Congressional and Administration interest in receiving periodic, timely analysis of issues affecting the global position of U.S. industries and the technological competitiveness of the United States.

INFORMATION LOSS IF DISCONTINUED.—The unique trade perspective provided by the ITC's industry analysts on such topical issues as high-tech emerging industries, advanced materials, new technologies, intellectual property protection, environmental regulation, NAFTA and GATT impacts, new manufacturing processes for materials, and industry globalization—to name only a few—would not be readily available without its publication. These in-depth, yet concise articles are a means of ensuring timely analysis of emerging issues and also facilitate the development of the expertise maintained by the ITC.

<u>COMMENT</u>.—Although timely access to analysis of unfolding issues by policymakers would be significantly reduced, the Commission could limit the frequency to semiannual.

#### TITLE: International Repnamic Review

FREQUENCY: 11 reports per year (no sunset) REQUESTOR: USITC

INITIATION: 1980
FY-94 COST: \$114,000 (represents personnel costs only).
NO. PRINTED IN FY-94: 850/issue

ORIGIN/PURPOSE.-This series was self-initiated by the Commission in 1980 in an effort to speed transmission to Congress, the Executive Branch, and the public of information already gathered in the course of preparing statutory studies or in monitoring emerging developments in multilateral, bilateral, and regional forums. Ten regular issues of the IRR are issued annually. In addition, an annual chartbook containing statistics and graphs that depict U.S. trade with major regions and countries is issued shortly after year-end trade statistics are released.

Each issue includes four major sections: International Economic Comparisons, (comparing actual and projected U.S. economic performance to that of other major developed economies), U.S. trade performance (most recent data by country and commodity), International Trade Developments (articles on recent trade policy developments); and Statistical Tables. In addition, half of the issues contain a "Special Focus" feature that treats timely topics in a more in-depth fashion. Recent "Special Focus" articles have covered Trade and the Environment and the New Trade Agenda.

INFORMATION LOSS IF DISCONTINUED.—IER compiles in one source a variety of important trade-related information of interest to policymakers. In addition, it contains analysis of key contains analysis of key source and trade developments such as the dramatic growth of foreign investment in China, the peso crisis, etc. It serves as a mechanism for our country and regional expects to independently assess trade-agreement activity (e.g., the APEC Ministerial, subregional integration initiatives, [13]). Chile's trade agreements). It also is a vehicle for quick-response requests to USTR and the Hill regarding particular issue areas, such as economic reform in Latin America, export controls, countertrade, etc. Whereas a variety of publicly available sources report on trade policy developments or present U.S. policy positions, few sources actually analyze them in an independent

COMMENT.—This report is important given the variety of trade initiatives currently being pursued by the United States, and the need for timely, concise information. We expect to continue using IER as a vehicle for developing and presenting research on emerging trade issues that will be helpful to policymakers. Current practice gives the Commission flexibility to modify coverage and determine periodicity in light of Congress' and the President's changing needs.

Chairman CRANE. Our next witness is Michael Lane, Deputy Commissioner of the U.S. Customs Service, and George Weise is

vacationing on the border.

You may proceed, Mr. Lane. If you can try and summarize in 5 minutes or less, that is ideal. Any further written testimony will be submitted for the record.

## STATEMENT OF MICHAEL H. LANE, DEPUTY COMMISSIONER, U.S. CUSTOMS SERVICE

Mr. Lane. Thank you, Mr. Chairman.

With me today on my right is Vincette Goerl, our CFO; on my immediate right, Wayne Hamilton, our Budget Director; and on my left, Sam Banks, Assistant Commissioner for Field Operations.

As you know, the Commissioner is on the Southwest border. He announced Operation Hard Line together with Dr. Lee Brown, Director of the Office of National Drug Control Policy, this weekend. The Commissioner is now traveling the Southwest border to kick off the implementation of that operation.

Customs is pleased to make a budget request for fiscal year 1996 of \$1.4 billion and 17,133 FTE. This represents a reduction of \$39 million and 116 FTE. We believe this is a budget request that is

both responsive and responsible.

As you know, Mr. Chairman, Customs has concluded a decade in which there has been tremendous growth in world trade and in almost every area of Customs' workload and responsibility. The increase in our workload has ranged from 50 to 75 percent, and sometimes 100 percent, over the past 10 years. We are approaching a decade where those same increases—that is, workload and activity increases of 50 to 75 percent—are expected.

As you know, over the past decade staffing and budget did not keep pace. We had to find other means to keep up with that work-

load.

In trying to be responsive to the administration, the Vice President's National Performance Review, the Congress, this committee, the public and the challenges posed by our Commissioner, we are trying to make a Customs Service that works better and costs less. We are proposing a budget that relies less and less on FTE and budget increases and more and more on technology improved business techniques from the private sector and becoming a more

information- and knowledge-based agency.

We think that this strategy is working. In fiscal year 1994, Customs collected a record \$23 billion in revenue. We increased our effectiveness and efficiency in narcotics enforcement domestically and internationally. We successfully implemented NAFTA and the GATT Uruguay round. We provided worldwide leadership in automation and training of other Customs Services. We replaced adversarial relationships with partnerships with other agencies, our customers, and employees, to provide the service and oversight of 1 trillion dollars' worth of goods which cross our border each year and almost 1 billion passengers and pedestrians that cross our border every year. We began an implementation of our reorganization to better serve the Nation in the future.

In summary, we accept the challenge and stretched goals to be more effective with larger workloads and decreasing budgets. The NPR, the Congress, this committee and our Commissioner have posed the challenge and provided the inspiration. The Customs Service intends to deliver.

That concludes my remarks, Mr. Chairman. We would be glad to

take questions.

[The prepared statement follows:]

#### Statement of Michael H. Lane

#### Deputy Commissioner of Customs

# Authorization Hearing with the U.S. Customs Service Before the House Committee on Ways and Means Subcommittee on Trade February 27, 1995

Mr. Chairman and Members of the Committee, it is indeed a pleasure to be here this afternoon to discuss the activities of the Customs Service and to present our authorization request.

Accompanying me are members of Customs executive management team.

On behalf of the Customs Service, I want to express our appreciation to the Committee for its guidance and leadership, which continue to help Customs achieve its vision and full potential for service to the Nation and to U.S. industry.

My statement will be brief today, since Commissioner Weise, when he appeared before this Subcommittee on January 30, 1995, had the opportunity to discuss our reorganization in detail. On this occasion, I would like to summarize the role of the Customs Service and our contributions to this Nation and to the Executive Branch of Government, and to articulate Customs approach to its mission. Finally, I will outline Customs strategy for handling increased workload in an efficient, effective manner.

### Customs Budget Request for FY 1996

Customs FY 1996 budget request, which totals \$1.4 billion and 17,133 FTE, is a net reduction of \$39 million and 116 FTE from FY 1995. Our budget request for FY 1996 recognizes the need for a Government that works smarter and costs less. In this time of shrinking resources and budgets, Customs cannot expect to receive continuous additions to enhance operations, despite the likelihood of substantial annual increases in international trade, travel, and tourism. Instead, the Agency is using innovative technological and organizational approaches, such as the Automated Commercial Environment and the reinvestment of resources freed up by restructuring our operations, to meet the substantial challenges of its mission.

### The Mission of the Customs Service

As the Nation's primary border agency, the Customs Service has a complex and varied mission, with tremendous responsibilities in both revenue collection and law enforcement. This means Customs must:

o Assess and collect revenue in the form of duties, taxes, and fees on imported merchandise;

- o Enforce U.S. laws intended to prevent illegal trade practices;
- o Protect the American public and environment from the introduction of prohibited hazardous and noxious products;
- o Regulate the movement of persons, carriers, merchandise, and commodities between the United States and other nations, while facilitating the movement of all legitimate cargo, carriers, travelers, and mail;
- o Interdict narcotics and other contraband; and
- o Enforce certain provisions of the export control laws of the United States.

### Workload

To carry out this mission, Customs processes an incredible workload. Two statistics provide a general indication of Customs work: we processed over 450 million passengers in FY 1994, and collected \$22.9 billion in revenue, making us the second largest revenue producer in the Federal Government.

In FY 1994, our inspectors processed 389 million land passengers, over 58 million air passengers and over 7 million sea passengers. In addition, they processed 131 million vehicles, 807,000 aircraft and 277,000 vessels. We expect that these numbers will continue to rise as we approach the year 2000. Our inspectors also carried out 223,200 intensive examinations on passengers in FY 1994.

The work of inspectors and agents yielded narcotics seizures amounting to 204,000 pounds of cocaine, 2,600 pounds of heroin and 559,000 pounds of marijuana. In addition, our increased focus on outbound passengers and merchandise prevented \$50 million in illegal currency exports, which are often associated with laundering the profits from illegal narcotics transactions. We also made 507 seizures of illegally exported arms and munitions and 77 seizures of sensitive technology. Customs has helped to enforce the sanctions which the Administration has increasingly been using as a foreign policy tool. To that end, we made 57 seizures of material under sanctions administered by the Office of Foreign Assets Control.

In FY 1994, Customs processed nearly 12 million formal commercial entries. Our inspectors carried out 365,000 intensive exams of merchandise, resulting in \$213 million worth of merchandise seizures and collection of \$10.5 million in penalties on merchandise which violated Customs regulations.

Customs enforcement of hundreds of laws, while processing passengers, carriers, and merchandise, results in investigative cases in a number of different areas, including trade fraud, narcotics smuggling, money laundering and outbound enforcement. Our investigative activity in FY 1994 involved over 40,000 cases, resulting in 4,340 Class I arrests and 3,040 Class I convictions. (Class I cases are defined as those involving criminal or civil financial violations of Title 18 USC, exceeding \$250,000 or violations of the Bank Secrecy Act.)

# Enforcing Laws Covering Carriers, Cargo, and Persons Entering and Departing the United States

customs enforces laws and regulations covering carriers, cargo, and persons entering and departing the United States, concentrating on improving levels of compliance through detection and interception in areas such as trade agreement violations, public health and safety issues, intellectual property rights, narcotics trafficking, unreported currency transactions, national security concerns, and child pornography. Customs is dedicated to the concept of informed compliance through education and outreach programs to ensure that violations are not committed through ignorance or a lack of understanding of the law.

Through its national strategies for trade enforcement, narcotics, outbound, and money laundering, Customs has placed a particular

emphasis on improving targeting efforts at the Nation's airports, seaports, and land borders to ensure optimum enforcement and facilitation results. Expanded use of automated systems, selectivity, compliance measurement, and innovative processing and inspection techniques have replaced traditional labor-intensive processes and have improved overall efficiency. Major inspectional methods are: a) use of automation and refined observational and questioning techniques which allow Customs to focus its attention on high-risk passengers and flights, as outlined in the Air Passenger Master Plan for the 1990's; b) ACS selectivity, which allows for low-risk merchandise shipments to be identified for expeditious release and high-risk shipments to be selected for intensive examination; and c) compliance measurement, which uses statistically valid sampling techniques to select shipments for intensive inspection in order to measure the trade community's compliance with laws and regulations.

### Investigating Violations of Laws and Trade Regulations

Customs investigates violations of U.S. laws and trade regulations, including violations of currency, neutrality, fraud, smuggling, exports of arms and critical technology, cargo theft, and child pornography laws. These investigations support our priority enforcement efforts against narcotics smuggling, economic crime, and other domestic violations.

Major enforcement investigative areas currently emphasized include:

- o Smuggling (focused on investigations and interdiction of narcotics smuggling, international trafficking in stolen motor vehicles, and child pornography);
- o Financial (focused on the identification, disruption, and dismantlement of the systems and organizations that launder the proceeds generated by smuggling, trade fraud and export violations).
- o Trade fraud (focused on violations that are most critical to the protection of U.S. health and safety, as well as the economic and industrial viability of the United States, including the under-valuation of goods, dumping, intellectual property rights infringement, and quota restrictions);
- o Strategic (focused on illegal export of material and technology which threaten U.S. national and economic security and U.S. foreign policy);
- Special (focused on aggressive undercover and special operations programs supporting all major investigative and interdiction priorities, in which special agents

establish covert "business enterprises" sought by felons and criminal organizations to give the appearance of legitimacy for their criminal enterprises);

- o Foreign (focused on management of investigations worldwide through foreign Customs offices); and
- o Air and marine (focused on narcotics interdiction and support functions, with an emphasis on narcotics smuggling by private aircraft and vessels from South America to staging areas and/or U.S. landfalls).

Two priority areas merit special mention: narcotics smuggling and trade fraud.

### Warcotics Smuggling

Customs maintains a deterrent to narcotics smuggling between ports of entry through its air and marine interdiction program and active investigative activity aimed at disrupting the criminal organizations that smuggle narcotics. Customs approach to enforcement at and between the ports continues to be the targeting of complex and sophisticated commercial drug smuggling, distribution, and money laundering organizations in air, land, and sea Southwest border environments. This strategy combines

all-source intelligence and technology, such as aerostats and other detection and surveillance technologies, with pre- and post-seizure intelligence, analysis, and investigations with a determined focus to disrupt and dismantle smuggling organizations through prosecution and asset removal.

During FY 1994, Customs agents worked 14,705 active narcotics cases. The most important of these are "impact" cases, investigations focused on the highest levels of the smuggling organization. The execution of these cases has the greatest debilitating effect on the criminal organization. Customs investigated 260 active "impact" narcotics cases in FY 1994.

### Operation HARD LINE

current estimates are that 70 percent of the cocaine smuggled into the United States crosses our common border with Mexico. In addition to the terrible toll the use of cocaine takes on our country, this illegal activity has generated a number of related problems, including disturbing trends of escalating violence at ports of entry which jeopardize the safety of Customs personnel and endanger the public.

In response to the massive narcotics threat, the Customs Service is implementing Operation HARD LINE to focus on permanently hardening our anti-smuggling efforts at the ports of entry. HARD

LINE will build upon the successful United States Border Patrol operations between the ports of entry, including HOLD THE LINE and GATEKEEPER, and the successful efforts of Customs Air Program, in the air space above the border, to create a comprehensive and unified Southwest border enforcement system.

In order to enhance port enforcement and officer safety, Customs has identified various capital improvements, such as barriers and bollards, to greatly diminish, or totally eliminate, the problem of port running. The problem of narcotics smuggled in commercial conveyances and cargo will also be addressed through improved targeting and interdiction procedures, expanded use of full-container x-ray equipment, proactive investigative support by means of intense source development, and intelligence gathering and assessment. HARD LINE also proposes the staging of Customs Black Hawk helicopters in the United States to ferry Mexican counter-drug forces to arrest traffickers and seize narcotics in Mexico.

This operation is a high priority of the Customs Service. We believe that it is important to build on the present success of our work force and continue to focus on the critical problems of border violence, port running, smuggling in commercial conveyances and cargo through the development and implementation of Operation HARD LINE.

### Trade Fraud

Our efforts against trade fraud become increasingly important as international trade grows more complex and new technologies are developed. Customs multi-disciplined teams investigate cases in which laws that regulate the importation of merchandise are violated. Through ongoing interaction with the Department of Justice, Customs aids in the prosecution of those who willfully violate U.S. trade laws. Customs supports its enforcement efforts by the collection of commercial intelligence from members of the intelligence community, as well as improved interaction with domestic industry to obtain all available enforcement information. The continued emphasis on trade enforcement priorities, issues, and threats will aid trade enforcement investigations and help increase prosecutions and major penalty collections.

# Serving the Nation and the Trade Community/Protecting Domestic Industry

Customs implements U.S. trade policy by collecting duties, taxes and fees; enforcing international codes and agreements; ensuring uniformity in trade procedures; accurately collecting and reporting import/export statistics; and providing efficient commercial services to the trade community. The dramatic growth in international trade and in sophisticated trade programs has

complicated the implementation of the Nation's trade policy. Currently, Customs enforces a long list of agreements covering specific countries and products. These agreements and other programs include:

- o Textile visa agreements with 40 countries.
- Uruguay Round tariff rate quotas on a variety of agricultural products.
- o The International Sugar Agreement.
- o The European Community (EC) Pasta Agreement.
- o Trade embargoes and sanctions such as the China munitions embargo, yellowfin tuna embargo, and the embargoes on most imports/exports to Cuba, Iran, and Iraq.
- o Trade restrictions on Canada, the European Community, and Japan, as well as individual companies.
- o Monitoring of semiconductors coming from Japan.

The Customs Service also effectively and efficiently administers trade enhancement programs. These consist of the Automotive

Products Trade Act, the Agreement on Civil Aircraft, the Caribbean Basin Economic Recovery Act, the United States-Israel Free Trade Area, and the Andean Trade Preference Act.

### KAPTA

Of the trade agreements that Customs helps to administer, the North American Free Trade Agreement (NAFTA) is probably the most well known. Because NAFTA is a preferential trade agreement, not a free trade agreement, only those goods that satisfy the NAFTA rules of origin are entitled to preferential benefits. Because of the benefits the agreement provides, there is substantial motivation to claim NAFTA preferential treatment when there is none. The strategic approach now being coordinated by Customs Office of Strategic Trade is to ensure that the rules are being followed and that a level playing field is being maintained. Customs is conducting research and analyzing trends to anticipate potential problems before they become significant.

### Customs intends to:

 Conduct complex regulatory audits that focus on multinational corporations,

- Increase the resources devoted to registering intellectual property rights (IPR) merchandise and tracking IPR violations,
- o Increase the resources devoted to laboratory, intelligence, and trend analyses; and
- o Emphasize the use of Jump Teams to identify transshipment, verify country of origin, and assure compliance with respect to textile and apparel articles for which NAFTA preference is claimed.

### GATT

The Uruguay Round Tariff Reductions and related agreements will, along with NAFTA, have a number of effects on Customs. Extensive new requirements are being placed on Customs to support more refined international trade programs. New systems of determining origin, substitution of tariff-rate for absolute quotas, various snap-back provisions and increased use of unfair trade practice cases will require a much more sophisticated approach. Because of these changes and the demands of NAFTA, we believe that our reorganization plan to emphasize strategic trade has been created just in time.

Also, changes in Intellectual Property Rights (IPR) legislation will tighten up enforcement procedures. Shorter deadlines for liquidation and administrative reviews of anti-dumping and countervailing duty cases will have a significant operational impact. Changes will occur in origin rules internationally, especially for Congressionally-mandated textile rules of origin.

### Trade Compliance

To coordinate Customs activities in the face of the increasing volume and complexity of international trade over the last decade, and in anticipation of the changes from NAFTA and GATT, Customs developed its Trade Enforcement Strategy to better confront the major requirements in the enforcement of trade laws, trade agreements, and trade sanctions. While trade compliance has always been an essential part of Customs effort to protect domestic industry from predatory trade practices and unfair competition, the rapid growth of these practices has required constant improvements to maintain a unified, comprehensive strategy. Customs Trade Enforcement Strategy coordinates the full range of Customs expertise to address a variety of trade problems. It attacks such illegal trade practices as false valuation and misdescription, transshipment, dumping, forced labor, infringements of intellectual property rights and attempted importation of goods which do not meet U.S. health and safety standards.

Customs seeks the trade community's "informed compliance" with all Federal laws and regulations relating to importation of goods. The Modernization Act has imposed greater responsibilities on the importing community for record keeping and for filing accurate entries. Our view of the future calls for shifting our resource allocation away from the current heavy emphasis on the verification of entries through inspection and review of importation paperwork toward greater emphasis on working with major importers so that we can rely on their internal control processes. In this way, we will minimize the costly and time-consuming inspection of individual transactions. This is essential for Customs to keep up with expected growth in trade.

Assuring compliance is the role of Customs regulatory audit function. This extremely effective program is a key element in Customs multi-disciplined approach to controlling commercial activities. The Customs Service has professional auditors located in 30 cities nationwide. In the coming months, regulatory audit will focus on NAFTA audits, increased scrutiny of transfer pricing, and heightened interest in priority industries. Our Trade Enforcement Strategy will depend heavily not only on staff with unique skills, such as auditors, but also on new automated technology, which will improve productivity and effectiveness.

### The Automated Commercial Environment (ACE)

Using innovative technological approaches for trade compliance purposes -- as well as in many other areas of Customs work -- is crucial to maintaining Customs capability to absorb projected workload increases without proportionate increases in resources. As I mentioned at the outset, Customs Automated Commercial Environment will help us meet the increasingly complex challenges of our mission. The Automated Commercial Environment is our name for an overall redesign of Customs automated processes. This redesign is structured to be the "next generation" for commercial processing, using many current systems, as well as off-the-shelf software, as feasible. When fully implemented, ACE will establish a seamless, interactive automated process providing information sharing among all Government participants. The investment represented by the development of ACE will enhance the quality of virtually every area of Customs processing and benefit the Government as a whole.

One of the most beneficial enhancements provided by ACE will be the establishment of an international trade database, as advocated by the National Performance Review (NPR), that will allow a wide range of trade information generated or collected by Customs to be accessed by numerous other Federal agencies. The information in the database will provide accurate information for trade negotiations and monitoring compliance with international

trade agreements. The database will be expanded to include both import and export information invaluable to many public and private sector entities. Users will be provided with more flexible data retrieval and greater analysis and reporting capabilities.

Significant quality improvements will be manifested through improved international trade controls, greater precision in revenue collections, and greater facilitation for legitimate international business. The Automated Commercial Environment strongly bolsters Customs trade enforcement and financial enforcement strategies through more sophisticated targeting techniques.

ACE will fully implement the automation initiatives of the Modernization Act such as importer activity summary statements (IASS), remote filing, reconciliation entries, and periodic filing. Also, it will include concepts such as account-based processing.

ACE will facilitate adherence to the provisions of the Chief Financial Officers (CFO) Act, and will address Congressional and Executive Branch recommendations for system improvements to internal controls and core financial operations. The selectivity improvements promoted by ACE include an updated targeting system and compliance measurement utilities that will help foster voluntary compliance with established regulations.

Since Customs is taking a comprehensive, integrated approach with ACE, it will take some time to do it right. The ACE Development Team completed its first deliverable, the Strategic Information Management Plan, in December 1994. Currently, the Team is developing requirements for the system in coordination with the Trade Compliance Process Improvement Teams and the trade community. This phase is scheduled to be completed this fiscal year. In FY 1996, the ACE Team will do system design, with development and testing to follow in FY 1997 and FY 1998. We plan to have ACE fully implemented in FY 1999.

### Restructuring the Customs Service

Technology alone will not be enough. Basic organizational and managerial change will be needed too.

Less than a month ago, Commissioner Weise appeared before this Subcommittee to participate in a hearing on our proposed reorganization. On that occasion, he discussed in detail the origin of the reorganization study team, along with its findings and recommendations. While being reluctant to repeat what has already been stated and discussed in great detail, I believe it is important, nevertheless, to mention Customs reorganization and

reinvestment plan, which will allow the Agency to keep its commitments to the Nation and to the American people in the face of record workload levels and the prospect of relatively static budgetary resources.

Sixteen months ago, with a mandate to work smarter and cost less, and with the freedom from prohibitions on studying a restructuring, Customs set about to re-examine the way it did business. A 20-person inter-disciplinary reorganization study team, which included representatives from the National Treasury Employees Union (NTEU) and a representative from the Immigration and Naturalization Service (INS), was assembled to determine if and how the Customs Service should change. Given a simple but broad mandate--design an organizational structure for the Customs Service that would prepare it to meet the challenges of the Nation at our borders in the 21st century--the team received extensive support and information from persons within the Customs Service, the Treasury Department, the Customs Operations Advisory Committee, the trade community, other Federal agencies, and congressional committees.

### People, Processes, and Partnerships

While many of the resulting proposals are directed at Customs organizational structure, the real heart of our effort involves fundamental change in the management culture of the Customs

Service. Critical to this culture change were the goals of the National Performance Review and the clear direction from former Secretary Bentsen for all Treasury agencies to focus on more efficient operations and improved service for customers. These concepts are all embodied in the slogan "People, Processes, and Partnerships." By this we mean an organization characterized by:

- o Greater attention to our people,
- o Managing essential core processes, and
- o Forming <u>partnerships</u> with our many customers as a means of improving our mission performance.

### The Promise of Our Vision

The study team's analysis resulted in a set of recommendations providing specific benefits to the American public. These recommendations fell within four broad categories:

- Restructured Operations,
- o Enhanced Customer Service,
- o Informed Compliance, and

More Integrated, Coordinated Operations.

Customs has existed as an agency for over 205 years. During that time it has developed a rich and sometimes complicated culture. Changing an institution that has developed over more than two centuries is no easy task. With the help of this Committee, we can restructure our core processes and reinvest in field operations to meet the challenges of the 21st century. We are well aware that changing the culture of the Customs Service will require a long-term effort, but this is one of the most important and lasting changes which we can hope to make.

### Conclusion

With the leadership and support of the President, the Vice President, Secretary Rubin, and this Committee, we at the Customs Service are proceeding in the right direction. We know that achieving our vision will not come easily, and we face many difficult challenges. But we are guided by a simple goal: to leave the Customs Service a better agency than when we found it. We welcome this Committee's assistance in making this goal a reality.

Mr. Chairman, we would be happy to answer any questions you may have.

Chairman CRANE. I see from recent press reports—and apparently the networks have picked on it, too—that your line release program is under fire. What is your assessment of this situation? And can you explain how the line release works—the prescreening process, for example—and what the experience has been to date?

Mr. Lane. As you know, Mr. Chairman, there has been a tremendous increase in trade, as I talked about in my opening statement. We have initiated a number of programs to ensure that we can provide the facilitation that is needed on the border and maintain our enforcement effectiveness.

Line release allows us to look at low-risk carriers, investigate their application for facilitated treatment, do background investigations on their history, sometimes visit their premises, and query all of our investigative files. Then if we find that this commodity and this company is low risk, we can provide expedited service.

I think the attacks of recent weeks on line release are born of the fact that people are looking at it as an enforcement program for everything, which it is not. It is one of a series of systems that Customs uses to screen importers and imported goods when they come into the country. Some of those systems are geared more toward enforcement, some toward narcotics, some toward commercial shipments. And you have to take a look at our system in the full context. Otherwise, you are chasing a red herring on line release.

Chairman CRANE. I notice that you propose transferring some resources, both people and dollars, to a new account called the Treasury foreign law enforcement account. Can you tell me the reasoning behind this transfer and what it gets you in terms of increased

efficiency and streamlining?

Mr. LANE. I can only answer that partially. That was a proposal from the Office of Management and Budget, and I think it would have to be answered between OMB and Treasury. We have been assured that, whatever happens with the proposal, the effectiveness of our international programs will not be impacted, and that the proposal is just a mechanism to improve the oversight of all the Treasury overseas enforcement activities.

Chairman CRANE. Would any of your agents be under someone

else's supervision?

Mr. Lane. No, sir. What this proposal would do is provide some joint training of all overseas Customs and Treasury enforcement personnel so Customs could handle routine referrals and transactions from Treasury, and they could do the same for us. That could provide some efficiencies.

Chairman CRANE. While we are on the subject, how many outside budget accounts does Customs receive money from during the

fiscal year?

Mr. Lane. I would say something like 13 or 12. Could we provide that for the record?

Chairman CRANE. If you would please. That was my next request.

Thank you for your testimony.

Mr. Payne.

Mr. PAYNE. Thank you very much, Mr. Chairman.

Thank you, Mr. Lane, for your testimony.

I understand that the funding requested by Customs this year for drug control activities or for fiscal year 1996 is roughly \$420 million, and the requested permanent levels are roughly 4,900 FTEs. This is a reduction, as I understand, from 1994 when we actually appropriated \$466 million and there were 5,100 FTEs at that time.

Contrasting this, during the same period of time, Customs' funding has increased 10 percent and personnel levels have increased 4 percent. Why has Customs then increased its resources for commercial operations and decreased them for combating drug smuggling? And does this mean that we are less able than we have been before to carry out the mission of the Customs as relates to drug matters?

Mr. LANE. I think there are a variety of reasons for that, Con-

gressman.

One of the things that has happened has been a reduction in our air and marine area. We have reduced FTE in this area and mothballed some of our vessels. Part of the reason for this reduction is in recognition of other agencies coming in and helping us in the area of our air resources as well as marine, by the Coast Guard and DOD. That is pretty much why we have been able to make some reductions in that area.

Mr. PAYNE. So you think the reductions being made are offset by

others who are coming in to perform those same functions?

Mr. LANE. Yes.

Mr. PAYNE. So we are equally able to combat drugs or will be in

1996 as we were in fiscal year—

Mr. LANE. I know there is a lot of emphasis and focus on what is wrong with the drug program, but I think that Customs has an extraordinary record in preventing air smuggling into the United States, which was the preferred method in the seventies and eighties. We don't have that significant threat anymore.

Similarly, Customs and the Coast Guard put together programs in the Caribbean and in the gulf and in the Bahamas that virtually shut down the fast boat trafficking between the United States and the Bahamas. We are making adjustments in those areas to reflect

those successes.

Mr. PAYNE. The proposed budget for fiscal year 1996 devotes roughly 60 percent of the resources to commercial operations and 40 percent to noncommercial operations such as drug enforcement, controlling illegal exports, control of child pornography, support of enforcement efforts of other agencies like USDA. Could you tell us how this compares with the historical trends of the Customs in terms of its allocation of resources in those two broad groups?

Mr. Lane. I don't think that those numbers are significantly different than what they have been in the past. I have one concern about the numbers. The largest portion of the Customs Service is our inspection and control area, which has about half our staffing in it. Those are our most flexible responsive resources. And, depending on the need, can be allocated within the fiscal year to emphasize a particular area almost immediately. If we have a drug problem in a particular area we can devote much more of the inspectional time to it. I would make the same statement with regard to investigative resources as well.

Mr. PAYNE. Could you look into that trend over the past 5 years in those two broad categories so we can look at how those resources are being allocated?

Mr. LANE. Yes.

Chairman CRANE. Mr. Houghton.

Mr. HOUGHTON. In looking at your budget for 1996, I guess I have a question in terms of what do you do in 1997. Let me ask you a question here. What you do is you take \$20 million from prior years' unobligated balances and bring them into 1996 from 1995.

Mr. LANE. Yes.

Mr. HOUGHTON. Then you use \$3 million from the Harbor Maintenance Trust, so that is \$23 million which you are going to have to make up for in 1997. At the same time, you reduce costs not funded by GSA by \$5 million and also request a little less than \$5 million from the Crime Bill Trust Fund. Maybe that is \$10 million. So maybe that is a net of \$13 million. Not the end of the world for an agency your size, but how do you plan to make that up?

Because when you borrow from I year to pay into another—I have seen this happen so many times in New York State—is that you really come a cropper in the following years. What are your

plans to handle that?

Mr. LANE. That is a concern, Congressman. The \$20 million which is the largest amount you mentioned there, is from unobligated balances that we are putting into our air program to keep at a level of \$80 million. So the base there this year which appears

to be \$60 million is really an operating level of \$80 million.

We will have, by the end of 1996, expended all of those unobligated balances, meaning that in fiscal year 1997 we will be looking like we are making a \$20 million request for increases in the air program. That is not the case. We will need to maintain our base level of \$80 million at a minimum and maybe more, depending on what happens with the drug threat.

The other items are just adjustments that we are trying to make to keep the budget down and to operate more efficiently and use things like the carryover provision that the Congress has provided

in this year's budget.

Mr. HOUGHTON. One other question. You know your mission. You know what has to be done. You know the cost constraints. Are there things which we are doing to restrain you in the flexibility

you need in order to fulfill your mission?

Mr. Lane. That the Congress is doing? Well, Congressman, the Commissioner of Customs and the Customs Service are working to get onboard and out in front with the sentiments of the National Performance Review and the Contract With America and to reduce government bureaucracy. I think that our reorganization effort which the Commissioner testified on before you several weeks ago, and our modernization act are a reflection of Customs initiatives.

It was recommended in our House Appropriations hearing that the Commissioner read "The Death of Common Sense." We have been reading it, and I think it might provide a framework for

changing our regulatory approaches.

In the past, Customs has been hamstrung by staffing ceilings and floors. Anything that can be done to take those restrictions off

and give us more flexibility on being able to move money around and move between categories of personnel and equipment would probably be helpful.

Mr. HOUGHTON. So you are saying that there are restrictions that you would like to see—no more money but fewer restrictions

to help you accomplish your mission?

Mr. LANE. That is half right. If you wanted to provide more money that would be OK; but, yes, we do want the restrictions off.
Mr. HOUGHTON. Maybe you could break that down.

I think, Mr. Chairman, that it might be worthwhile to see where we might more closely work together. Because we are all after the same thing. And if there are things that we consider important that you don't like, that is too bad; but if there are things which are not really that important which we have superimposed upon your operation we ought to look at those things. I would suggest maybe we could get a report.

Mr. LANE. We would appreciate the opportunity to have input on

that.

[At the time of printing no information was received.]

Chairman CRANE, Mr. Hancock.

Mr. HANCOCK. Mr. Lane, as a result of what has been going on with the devaluation of the peso in Mexico, has that created any additional problems for you along that border? Has it created problems for Customs?

Mr. LANE. No, sir. We haven't had any problems so far. In the local community along the border where the local economies are tied in, transborder shopping is probably down. We don't have the statistics on it, but some of the passenger traffic may have decreased. I don't think that there is any big problem there.

Mr. HANCOCK. You don't think there is any problem with the attempted misshipment of goods? Do you have to watch a little closer as a result of the differential in the value of the dollar and the

Mr. LANE. As you would expect, the amount of exports is reduced substantially. Customs doesn't spend a lot of resources on exports, so that hasn't really impacted us. I would say that the level of readiness and vigilance on the border is very high for a variety of reasons, which include narcotics trafficking and border violence. Al-

ready we are very attentive to what is going on down there.

Mr. HANCOCK. I have been asking questions for several years about the disposal of forfeited and seized assets. Has there been any type of an effort made to take a look at what is happening to those assets when forfeited, and what valuation we get for them? I have been frustrated for 6 years with trying to even get anybody

that can really tell me how that operates.

Mr. LANE. Well, Congressman, I would say, very much as a result of the work of this committee, Customs has given a tremendous amount of attention to problems with seized assets. In fact, as a result of a series of hearings over the years, Customs has completely reengineered its approach to the handling of seized property.

We have also outsourced it, and substantially improved our oversight of the second contractor that we have had doing this. We are now in our third generation of improvements of that area. We have had, historically, some problems there. I think we have corrected them. We have been very responsive to the committee and would be glad to brief you on our progress in that regard.

Mr. HANCOCK. Thank you, Mr. Chairman.

Chairman CRANE. Mr. Rangel.

Mr. RANGEL. Thank you, Mr. Chairman.

Good to see you again, Mr. Lane.

How much of your seizures, what percentage roughly, are based on intelligence information gathered—I am talking about at the border as opposed to the random sampling. Half? One-and-a-half?

Mr. LANE. It is hard to say, Mr. Rangel. On the border it is very difficult, in that we have such a flow of traffic and not as much ad-

vance time and information as we have in terms of-

Mr. RANGEL. I am not framing my question correctly. What I am trying to find out is, based on intelligence, when you know someone is coming to the border and you are looking for them and waiting for them because someone has already told you what they intend to do, what percentage of the seizures at that border check do you already know is coming across? Do you have any seizures at the border based on information that is gathered?

Let me move on.

Mr. LANE. Yes, we do.

Mr. RANGEL. You might want to share with me, because with all this sophisticated equipment—and I laud this effort that is being made, if indeed it is as bad as it used to be in terms of potluck, what you get across the border—it would seem to me that one might be concentrating on developing those types of cases that go deeper into where the drugs are coming from in the first place. Even if you were doing that, it is my understanding that after you develop the intelligence and track down the carrier and report it to the Mexican Government, that many times corruption causes no arrests to be made even then. Is that so?

Mr. Lane. To some extent. More often DEA, FBI, our agents, as well as the intelligence community, are providing more and more information. And part of the efforts that the Commissioner is on the border kicking off right now will include more foreign intelligence in Mexico on commercial commodities that might have

drugs.

Mr. RANGEL. What happens when you, as a result of successful penetration into the narcotic trafficking, through the Customs agent, are aware of planeloads of cocaine heading toward the United States but are stopped in Mexico and the Mexican Government is notified? It is my understanding that many times the planes are emptied out before the soldiers get there or nothing, in fact, is done. What do you do then?

Mr. LANE. We go on, Mr. Rangel. We have had instances like

that.

We have also had some substantial successes in spotting aircraft with our resources, providing that information to the Mexicans, and having successful interdictions in Mexico with our assets assisting them in the apprehensions.

Mr. RANGEL. When you find that due to corruption, negligence or whatever reason that the information you provided on the identification of the cocaine, or whatever the substance, that there is not

a positive response through this information, what do you do? I

know you move on, but do you report it to anybody----

Mr. LANE. We report it to the State Department. And the State Department and other officials that work in the Embassy in Mexico pressure them.

Mr. RANGEL. Have you ever known any action taken by the U.S. State Department, as a result of information you furnished them, that would lead you to believe that the Mexicans fouled what could

have been a substantial seizure and arrest?

Mr. LANE. Well, I do know of examples when we have believed that there was corruption and have had information that a seizure was lost. An interdiction was interrupted because of what we provided to the State Department. They have aggressively pursued that with the Mexicans. We also know of some instances where it has resulted in changes, the State Department following up on it—

Mr. RANGEL. That is not unusual. Is it customary that many of your investigations are aborted because of lack of cooperation by the Mexican authorities?

Mr. LANE. I don't-It is not so much an investigation-

Mr. RANGEL. You are not with the State Department. They never

like to say anything—

Mr. Lane. As you know, Mr. Rangel, we have been trying for the last 20 years to deal cooperatively with the Mexicans, first with getting P-3 flights over. We do have that now. Second, with getting Citation training going. We have that now. We have many cooperative initiatives going with the Mexicans.

Mr. RANGEL. Are you satisfied with the state of cooperation be-

tween Customs and the Mexican Government?

Mr. Lane. I think that there are other areas that we are working on that will be important steps forward in joint cooperative efforts, and I think we are getting close. I think we will get there, as we did with the P-3s and Citations.

Mr. RANGEL. Who is your point person in the State Department?

Mr. LANE. Ambassador Gelbard.

Mr. RANGEL. Did you already answer about why you had such a traumatic reduction in the budget of the air enforcement program?

Mr. LANE. Yes, sir. We are proposing the use of some unobligated funds that are available, at an amount of \$20 million to add to an

appropriation of \$60 million, bringing us up to \$80 million.

Mr. RANGEL. Let me thank Customs for the delicate line that you have to travel between expediting commercial travel and at the same time stopping this poison from coming into the United States. I hope you continue to vigorously do that job and not have it damaged sometimes by the diplomacy of the State Department. If you do find impediments, please report them to me.

Chairman CRANE, Mr. Ramstad.

Mr. RAMSTAD. Thank you. I can't help but think, listening to the exchange between you and the distinguished ranking member, you have to feel like the guy with his finger in the proverbial dike most of the time. Is any real progress being made in combating illegal transshipments of drugs?

Mr. LANE. Through Mexico?

Mr. RAMSTAD. Yes.

Mr. LANE. I think a great deal. When I came into Customs in 1970, starting with Operation Intercept, through the violent period on the border of the seventies and the very disruptive period in the eighties when trafficking moved from south Florida over again into the Southwest border, we have made a great deal of progress.

We have essentially closed the border to air trafficking. We have established the aerostat network. Our system of planes supported by other agencies has stopped air trafficking into the United States. We have very good cooperative agreements with the Mexicans on air smuggling. And the border patrol is substantially filling the gap between the ports of entry.

So over the past 2 or 3 years, in particular, we have made great strides. The Mexicans have established some enforcement groups at the major areas on their side, and those are starting to get much

more effective.

Mr. RAMSTAD. Well, we all know—and I am not questioning what you just said—but we all know the drug problem continues to accelerate in this country, and certainly it is not because of a short-

age of supply.

I see from your recent budget request a \$5 million item there from the Crime Bill Trust Fund which many of us worked last year to put together for developing technology to prevent the export of stolen vehicles. I know nobody likes to have his or her car stolen, but it doesn't seem to me that \$5 million should be put into stolen cars when we have this drug crisis in America. It seems to me that should be a much higher priority. How do you justify \$5 million for developing technology to deal with stolen cars?

Mr. Lane. I agree. We are working with Treasury, OMB and the Drug Czar's Office to get that reprogrammed into drug enforcement

for the Southwest border.

Mr. RAMSTAD. That is the kind of responsiveness we love to see. We need more of that not only from the agencies but from the Hill here as well.

Thank you, Mr. Chairman. Chairman CRANE. Ms. Dunn.

Ms. DUNN. Thank you, Mr. Chairman.

I would like to move back to the administrative side and ask you how you are doing on your reorganization plan that would cut back by 600 employees in your headquarters staff and how the ratio of midmanagerial folks to other employees is going, and is that reflected in your budget which has an aggregate cutback of 116 FTEs?

Mr. LANE. Ms. Dunn, we are proceeding very aggressively with our reorganization and all that is involved with it. We set a goal of reducing our headquarters by a third, and that would be 600

people. We have already reduced about 150 FTE.

But we are sort of slacking off on the timeframe, trying to slow down a little bit, because we are abolishing our regions and districts effective October 1 of this year. We are trying to give those employees first priority in placement in frontline positions at the ports of entry. We will have 450 people over the next 2 or 3 years that we would like to place and take out of headquarters.

We are also establishing our targets on the supervisor/employee ratio, trying to get from where we are now, which I think is about 1 to 6, to get it up to 1 to 15. We are going to try to get there because that is the goal that has been established. In Customs there are a lot of ports where there are only two or three people and there has to be a supervisor onboard to be in charge of the situation.

So 1 to 15 is a stretched goal, although we are definitely flattening the organization, eliminating 7 regions and 45 districts and area offices, and replacing them with only one intermediate level of 20 Customs Management Centers.

Ms. DUNN. So you are satisfied with the trend toward that cut-

back?

Mr. LANE. We are never satisfied. We want to establish for ourselves, in conjunction with the NPR and the desires of the public and the new Congress, a government that is leaner. We have been on the forefront of this and think we can take our fair share of the cuts and still handle a 50- or 75-percent workload increase in the coming decade.

We are pushing as hard as we can. We are accepting the challenges and the stretched goals, and we are determined to meet them and still increase the level of effectiveness of the agency.

Ms. DUNN. Thank you, Mr. Lane.

Thank you, Mr. Chairman.

Chairman CRANE. Thank you for your testimony, Mr. Lane. We look forward to working with you, too, over the course of this next year and satisfactorily resolving Customs problems. If we can be of assistance, let us know. Thank you for your testimony.

[The following was subsequently received:]

## QUESTIONS SUBMITTED FOR THE RECORD BY THE COMMITTEE

### FY 1996 BUDGET PROPOSAL

Question. Your budget proposal identifies a \$37.7 million reduction from the FY 1995 appropriation. How true are these savings, given the increases in new funding sources such as the Crime Bill Trust Fund, the Harbor Maintenance Fee Account, and carryovers from prior years?

Answer. I can assure you, Mr. Chairman, that the reductions in our FY 1996 budget proposal are real. The FY 1996 request is a responsible budget, in keeping with the Administration's goal of reducing the deficit. It recognizes the need for a Government that works smarter and costs less.

The proposed Harbor Maintenance Fee Collection account and the Foreign Law Enforcement appropriation would neither give nor take away funding for Customs operations. These proposed new accounts would reimburse Customs for existing operations currently funded by the Salaries and Expenses account. Customs use of carryover balances from prior years to supplement the air and marine programs' Operation and Maintenance Appropriation in FY 1996 is a one-time source of funding. It is an offset to the base funding for the program and additional funds would be required in the future to maintain operations at the current level. The Violent Crime Control and Law Enforcement Trust Fund is the only one of these accounts for which we are requesting an amount higher than the FY 1995 budget.

Question. How are proposed funding transfers, such as to the Treasury overseas enforcement account, handled?

Answer. Transfers to Customs may be made in a number of ways. If the transfer is a budgeted transfer of resources, and Congress approves the transfer, then the transfer is effected through the appropriation process.

The transfer of resources does not necessarily have to be done through the appropriation process, but direction could come from the appropriation language or Committee reports. In that case, the agency transferring the funds to Customs could:

- o prepare a Non-expenditure Transfer (SF 1151), which transfers the funds directly to a Customs appropriation, or
- o prepare a Memorandum of Understanding and a Reimbursable Agreement, whereby the agency is billed as services are performed.

Question. Has Customs made any progress in thinning its mid-managerial ranks, i.e., reducing its supervisor to employee ratio? Does the FY 1996 reduction help move toward this goal?

Answer. One of the primary goals of the National Performance Review (NPR) is to reduce the size of Headquarters offices, reduce GS-14s and above, and reduce the number of administrative positions, particularly those in the areas of personnel, budget, procurement, and management control. Also, the NPR calls for the current supervisor/employee ratio to be reduced by half within 5 years, with a long-term goal of achieving a 1:15 ratio.

The current Customs supervisor/employee ratio is about 1:6. This is due, in part, to our many small ports, where there are only two or three people total, one of whom is a supervisor. It is important to note that many of our field supervisors are directly involved in the processing of passengers, conveyances and cargo. Under our reorganization, we are working to achieve an Agency-wide ratio of 1:15 within five years.

Question. As part of your reorganization, you have committed to reducing headquarters staff by one-third or 600 positions. How close are you to this goal?

Answer. Our staffing policy has been to maintain a freeze on headquarters (regional and national) positions and allow the filling of front line and field positions. This freeze has permitted us to meet the Executive Order reductions and reductions in FTE resulting from mandated absorptions. Between April 1993 and January 1995, we have reduced headquarters by 153 full-time positions and 20 part-time positions.

We will continue to follow a policy of reducing headquarters and support positions over several years, while investing as many staff resources in the field as possible. Question. Does the FY 1996 budget proposal move Customs any closer? If so, how is it reflected in the budget?

Answer. Our FY 1996 budget request includes a further FTE reduction, mostly as a result of National Performance Review streamlining requirements. This reduction will decrease the size of the Customs Service in administrative and support positions; however, the ability to reinvest in line positions is critical for us to be able to handle the increased workload that we expect in the next few years.

### PRESIDENTIALLY-MANDATED CUTS

Question. How will Government-wide cuts in administrative costs and personnel ordered by the President affect Customs?

Answer. The executive orders which mandated administrative and personnel cuts were signed in FY 1993. During the FY 1993-FY 1996 budget cycles, the administrative cuts totaled 14 percent. The FY 1996 budget includes the final reduction of 5 percent, completing the required administrative reductions. With the FY 1996 budget, these cuts have resulted in an aggregate reduction of Customs administrative resources totaling \$37 million. The reductions have been, and will continue to be, spread over all categories of administrative costs, except GSA rent. Reductions in FTE taken as a consequence of the President's executive order have also occurred over this period.

Because Customs has laid a solid foundation with effective technology and automated systems, it is able to perform its basic enforcement and trade facilitation missions despite these cuts. But the cumulative effect of these reductions is to take away Customs flexibility to absorb any further cost increases, with the end result being that future absorptions could immediately equate in a loss of FTE.

For example, the President's Budget for FY 1995 contained resources for a pay increase of approximately 1.6 percent. The actual pay increase, including cost of living adjustments and locality pay, was an average of 2.6 percent. The cost in excess of the amount provided in the appropriation had to be absorbed, i.e., 1 percent. For the Customs Service, this absorption totalled \$6 million, requiring a reduction of 133 FTE.

Furthermore, the FY 1996 President's Budget proposes an additional reduction of 200 FTE as a result of a variety of absorptions in previous years. The funding related to this action is \$9 million.

Question. Aren't these offset to some extent by built-in increases for inflation?

Answer. Yes, but the net effect is still a significant reduction in resources. Allowances for inflation have not kept pace with the cuts.

### SOURCES OF FUNDING

Question. According to the FY 1996 budget proposal, Customs receives funds from a number of outside sources including ONDCP, the Crime Bill Trust Fund, various user fee accounts, and the Treasury Forfeiture Fund. Please identify all funding sources and the amounts received for FY 1995 and FY 1996.

Answer. The information follows.

# UNITED STATES CUSTOMS SERVICE SOURCES OF FUNDING

RESOURCE	AUTHORIZED BY	FY 1996 LEVEL (\$000's) FTE	FY 1996 LEVEL (\$000's) FTE	PURPOSE
ANNUAL APPROPRIATIONS SALARIES & EXPENSES ACCOUNT - funding available from annual appropriation	19 U.S.C. 2075	1,392,651 17,209	1,392,651 17,209 1,381,550 17,093	For salaries, benefits and other costs associated with the basic mission of the Customs Service.
OPERATIONS & MAINTENANCE ACCOUNT - funding available from annual appropriation	Annual Appropriation	88,283 0	60,993 0	For expenses, not otherwise provided for, associated with the operation of the Air and Marine programs.
FACILITIES, CONSTRUCTION & IMPROVEMENTS ACCOUNT - funding available from annual appropriation	P.L. 102-141, 105 Stat. 838	1,000	0	For acquisition of real property, facilities, construction, improvements and related expenses of Customs.
SMALL AIRPORTS ACCOUNT  - receipt account, whose funding is currently available through annual appropriation	19 U.S.C. 58b(e)	1,406 30	1,406 30	For the provision of Customs services at certain small airports or other facilities.
INDEFINITE APPROPRIATIONS MISCELLANEOUS PERMANENT (PUERTO RICO)  · funding available from Customs collections in Puerto Rico	48 U.S.C. 740	178,412 365		Customs duties and fees collected in Puerto Rico are deposited in this account which are transferred to the Treasurer of Puerto Rico affer covering cost of Customs services.
COBRA - funding available from collection of user fees, part of which can be used by Customs	19 U.S.C. 58c	364,936 1,141	364,936 1,141 376,249 1,266	To facilitate inspections of air and sea passengers by covering expenses of inspectional overtime and other preclearance activities

RESOURCE REMBURSABLES/TRANSFERS REFUNDS, TRANSFERS, EXPENSES, UNCHANED AND ABANDONED GOODS - funding available from public auctions; excess is transferred to general fund OCDETF - funding available from Department of Justice reimbursement ONDCP - HIDTA - funding available from Office of National Drug Control Policy transfer TREASURY FORFEITURE FUND - funding available from Department of Treasury transfer VIOLENT CRIME TRUST FUND - funding available from Department of Treasury transfer NIOLENT CRIME TRUST FUND - funding available from Department of Treasury transfer NIOLENT CRIME TRUST FUND - funding available from Department of Treasury transfer NIOLENT CRIME TRUST FUND - funding available from Department of Treasury transfer BORDER SERVICES USER FEE - funding available from Compartment of Treasury transfer	AUTHORIZED BY 19 U.S.C. 1613 P.L. 100-690, 102 Stat. 4181 P.L. 100-690 31 U.S.C. 9703(a) Proposed	8 1 E	0 8 0 6 0 0	<b></b>		PURPOSE  To reimburse Customs for expenses related to disposition of goods at auction  To reimburse a portion of Customs expenses for drug enforcement activities  To offset expenses Customs incurs in its drug interdiction activities.  To reimburse expenses related to seizures of property involved in criminal activity  To fund a portion of Customs violent crime fightling activities.  To fund improved border management.
INTERNATIONAL LAW ENFORCEMENT - funding would be available from Department of Treasury transfer	Proposed	<b>o</b>	0	8,280	9g	To fund salaries and expenses related to Customs overseas enforcement activities.
HARBOR MAINTENANCE FEE COLLECTION 26 U.S.C. 9505( - funding would be available from annual appropriation	26 U.S.C. 9505(c)	3,000		3,000	0	For administrative expenses related to the collection of the Harbor Maintenance Fee.

RESOURCE	AUTHORIZED BY (\$0	FY 1995 LEVEL (\$000's) FTE	, LE	FY 1996 LEVEL (\$000's) FTE	FTE	PURPOSE
OTHER REIMBURSABLE - funding available from federal and private reimbursement agreements	Miscellaneous	261,367	654	270,745	729	261,367 654 270,745 729 To provide various reimbursable programs, such as those services provided to air courier hubs and Customs training.
SELECTED FEES COLLECTED MERCHANDISE PROCESSING FEE  - fee collections offset Treasury general fund, and are then used to fund Customs direct appropriation	19 U.S.C. 58c	659,751	0	659,751 0 672,946 0	0	To offset the general Treasury fund for a portion of Customs commercial costs.

Estimates are not available as the levels will be determined during the FY 1996 budget process.

### AUTOMATED EXPORT SYSTEM (AES)

Question. Please provide additional details on your plans for the Automated Export System (AES). How do you plan to address industry concerns regarding confidentiality?

Answer. AES is being designed to provide access to data on a need-to-know basis, based on an agency's regulations and/or statutes. Census laws on disclosure remain in effect and we will continue to be guided by the Privacy Act laws (P.L. 96-275, June 17, 1980). We are researching the legality of establishing a disclosure code for AES participants.

Manifest data will continue to be downloaded to Port Authorities and to tape. The data will, of course, first be run against the confidentiality database currently used on the import side, and established privacy data will be taken out before dissemination.

Question. What role will other agencies, such as Commerce's Bureau of Export Administration, play in the development of the AES?

Answer. For the July 1995 Phase One Implementation, two licensing agencies, the Department of Commerce's Bureau of Export Administration (BXA) and the Department of State's Office of Defense Trade Controls (ODTC), will be participating through an electronic interface with Customs AES. The third partnership agency for Phase One will be Commerce's Bureau of the Census for statistical and analysis purposes.

For the first phase, Customs will collect and transmit to BXA data on all export transactions. This will include the license number for approved individual validated licenses and special licenses. The license number will be validated against our file of licenses currently being provided by BXA.

For ODTC, a similar process will be developed for export transactions related to munitions shipments. In addition, a program for electronically decrementing the ODTC licenses will be included.

For BXA, their participation will allow for receipt of licensing data on shipments in real time for verification purposes. The ultimate goal is to eliminate the manual process

of providing a paper Shipper's Export Declaration (SED) and approved license at time of shipment.

# MEMORANDA OF UNDERSTANDING

Question. Please provide additional details on the recent memoranda of understanding concluded with the Commerce Department and the Drug Enforcement Administration (DEA).

Answer. On August 8, 1994, Customs and DEA entered into a new Memorandum of Understanding (MOU) which set forth a revised set of policies and procedures in an effort to maximize coordination of the Title 21 cross-designation program. The continuation of this program, which was established under a previous 1990 agreement, is critical for Customs to better protect our borders and ports of entry from drug smuggling violators. Approximately 1,250 Customs Special Agents are cross-designated to investigate drug smuggling organizations. The current MOU has been in effect for several months and we are continuously analyzing its impact, in an effort to identify potential improvements.

The MOU between Customs and Commerce has created standardized procedures for coordinating export enforcement activities, resulting in a significantly improved interagency relationship. The MOU is functioning well.

# FY 1996 CRIME BILL REQUEST

Question. Your budget includes a request for \$4,685,000 from the Crime Bill Trust Fund to continue the development of technology to prevent the export of stolen vehicles. Given all the focus on the need for tough drug enforcement, why was this activity chosen for Crime Bill funding? Why are stolen vehicles such a high priority?

Answer. The Crime Bill funding that was originally requested for this program is now proposed to be redirected into Operation HARD LINE. We intend to proceed with the stolen vehicle program as a Customs research and development project. Notwithstanding the diversion of the funding, the following background is provided for the purposes of thoroughly responding to the complete question.

Title XXXI of the Violent Crime Control and Law Enforcement Act of 1994 (Crime Bill) provided funds to the Department of the Treasury and its bureaus for violent crime initiatives. Based upon existing Customs export border enforcement responsibilities, in conjunction with increased congressional interest resulting in the passage of the "Anti-Car Theft Act of 1992," the Customs Service proposed a motor vehicle theft program. The Customs Service, by virtue of its role as the principal border law enforcement agency, has traditionally been involved in combatting the illegal export of stolen vehicles. Pursuant to 18 U.S.C. 553, Customs has statutory jurisdiction to investigate these violations.

Customs proposal included funding for slight personnel increases, as well as technology to enhance the motor vehicle export program. Specifically, Customs is attempting to develop prototype vapor detection equipment, which if successfully developed, would facilitate and increase our number of inspections by allowing for the collection and analysis of routine motor vehicle vapors from stolen vehicles concealed inside cargo containers. Additionally, Customs requested automated data processing (ADP) equipment which would improve efficiency by allowing field personnel to scan vehicle identification numbers and down load them directly into the Treasury Enforcement Communication System (TECS), and subsequently into the National Crime Information Center (NCIC) for immediate inquiry. The acquisition of the ADP equipment would eliminate incorrect number transpositions of the 17 character vehicle identification numbers.

Approximately 200,000 stolen motor vehicles are illegally exported from the United States every year, at a cost to their owners of approximately \$900 million. Automobile thefts in this country have become increasingly more violent—thefts of parked unoccupied cars have been supplanted by violent "carjackings." Notwithstanding Customs unparalleled commitment to drug smuggling enforcement, the Crime Bill afforded agencies with multifaceted responsibilities the opportunity to propose and request funding for "violent crime" related programs.

# OPERATION HARD LINE

Question. What is Operation Hard Line? How much will it cost, and how is it reflected in the budget proposal?

Answer. On February 25, 1995, the Director of the Office of National Drug Control Policy, Dr. Lee Brown, and I announced a new initiative, Operation HARD LINE.

Current estimates are that 70 percent of the cocaine smuggled into the United States crosses our common border with Mexico. In addition to the terrible toll the use of cocaine takes on our country, this illegal activity has generated a number of related problems, including disturbing trends of escalating violence at ports of entry which jeopardize the safety of Customs personnel and endanger the public.

In response to the massive narcotics threat, the Customs Service is implementing Operation HARD LINE to focus on permanently hardening our anti-smuggling efforts at the ports of entry. HARD LINE will build upon the successful United States Border Patrol operations between the ports of entry, including HOLD THE LINE and GATEKEEPER, and the successful efforts of Customs Air Program, in the air space above the border, to create a comprehensive and unified Southwest border enforcement system.

In order to enhance port enforcement and officer safety, Customs has identified various capital improvements, such as concrete barriers and hydraulic and pneumatic bollards, to greatly diminish, or totally eliminate, the problem of port running. Rather than hiding drugs in false gas tanks or spare tires, port runners load their car's trunk with drugs, and, if confronted by an inspector, accelerate out of the inspection lane, often careening wildly. Several inspectors and local citizens have been nearly run over by port runners. Some cases resulted in shootings. Port running incidents jumped three-fold in 1994, to 795 reported cases.

The problem of narcotics smuggled in commercial conveyances and cargo will also be addressed through improved targeting and interdiction procedures, expanded use of full-container x-ray equipment, proactive investigative support by means of intense source development, and intelligence gathering and assessment. HARD LINE also proposes the staging of Customs Black Hawk helicopters in the United States to ferry Mexican counter-drug forces to arrest traffickers and seize narcotics in Mexico.

It is not included in the FY 1996 budget request.

Question. Will Customs employees be transferred to the border area? If so, what will the effect be on other Customs districts?

Answer. Up to 28 Special Agents and up to 21 Customs Patrol Officers will be transferred to the Southwest Border. This is part of the Customs Service effort to transfer Office of Investigations staff from low impact areas to high impact areas.

Question. Will any of the funding received from ONDCP be used for this purpose?

Answer. No.

### CARGO PROCESSING ALONG THE MEXICAN BORDER

Question. Please describe your plans for augmenting cargo processing along the U.S. Mexico border.

Answer. The U.S. Customs Service has launched several initiatives to improve our systems in the area of narcotics interdiction along the southern border. We will be commencing a Southwest Border Gate-to-Gate review, in which we will be looking at all existing cargo clearing procedures, the use of high-tech equipment, and special operations conducted in cargo facilities.

We are establishing cross-functional targeting units at our major ports of entry with inspectors, agents, intelligence analysts, and operational analysis staff personnel as the core team. We have developed and will soon be testing an automated targeting system designed to increase the efficiency and effectiveness of our narcotics and commercial compliance targeting units. This expert weighted rule-based system will help facilitate the flow of low-risk cargo and concentrate our inspectional enforcement assets on the cargo with the highest risk.

The largest elective training initiative in FY 1994 was the training of over 300 southern border officers in cargo narcotic interdiction techniques. This training, developed by southern border officers, was designed specifically to address the unique situation that the U.S.-Mexican border presents in narcotic smuggling. These officers spent seven days in an intensive program in which they were trained in targeting and examination techniques, and in the proper use of the high-tech equipment

available along the southern border for the interdiction of narcotics. In FY 1995, another 240 southern border cargo officers are scheduled to attend the training.

We have also spent \$11,000,000 over several years to support special High Intensity Drug Trafficking Areas (HIDTA) narcotic interdiction operations along our southern ports of entry and to purchase high-tech equipment whose main purpose is the discovering of narcotics in cargo conveyances and merchandise. Customs goal is to conduct more intensive, less intrusive cargo inspections through the use of high technology.

The Commissioner has authorized the expenditure of \$1.3 million to upgrade the performance of the Line Release program. Over a dozen specific system enhancements have been identified to improve enforcement capabilities. These enhancements were identified by field officers from both the northern and southern border, and will be phased in over the next two years.

The Customs Service has always performed intensive examinations of cargo for the identification of commercial trade violations, as well as for the interdiction of narcotics. Compliance measurement will determine statistically valid rates of compliance with import laws, rules, and regulations. A Service-wide commodity driven compliance measurement is being performed at a 4-digit Harmonized Tariff Schedule (HTS) level. The examination will be selected using the statistically valid random selection used in the compliance measurement program.

## NAFTA AND GATT

Question. With the recent passage of NAFTA and the Uruguay Round, how do you plan to handle an increased volume of trade and the likely increase in Customs fraud, while facilitating trade?

Answer. Customs is aware that all economic projections foresee a tremendous increase in the volume of trade for the next several years. In fact, we are compiling statistics on projected trade patterns and revenue implications for analysis of their impact on Customs in both the short and long terms. We intend to utilize the results of this analysis for many reasons, including the continued maintenance of a national trade enforcement strategy. For the past few years, Customs, where possible, has been using a targeted, selective approach to fraud enforcement

rather than a transaction by transaction approach. We have been encouraging our field personnel to use available software to manipulate data to look for trade aberrations rather than to review each and every import transaction. We couple this broad approach with a compliance review measurement program in which individual transactions are randomly selected for in-depth review. Results from this program are also used to direct Customs enforcement efforts. Customs is also in the process of integrating the provisions of the Customs Modernization Act (the Mod Act) into our agency. The Mod Act places the burden for compliance on the importer and gives Customs the responsibility for informing the importer of its obligations. Given all of the above, we believe that Customs is eminently capable of facilitating increased volumes of legitimate trade while intercepting that which is fraudulent.

Question. Please describe in greater detail the role of the Office of Strategic Trade in the implementation of the NAFTA rule of origin provisions. What is Customs doing to ensure that the rules are being properly implemented? How are you measuring the success of these efforts?

Answer. Many elements in the Customs Service are working collectively to ensure the enforcement of NAFTA. The Office of Strategic Trade (OST), just recently established, has designated NAFTA as one of its top priorities and is placing heavy emphasis on this subject as part of Customs "Trade Enforcement Action Plan." We recently concluded a conference of various entities within Customs to identify those merchandise areas that have the greatest likelihood of violating the requirements stipulated under the Agreement, and to draft a plan of action to address these areas.

OST is helping to assure the 1200 NAFTA verifications Customs committed to undertaking are completed in 1995. We have already begun interventions in certain industrial sectors suspected of circumventing NAFTA rules and regulations. In addition, our auditors are aggressively pursuing several agricultural sectors, with results that appear to be promising.

In order to gauge the success of our endeavors, we have a compliance measurement system which provides a comprehensive measurement of the compliance of importations across the entire spectrum of the Harmonized Tariff Schedule (HTS) in FY 1995. This system provides a statistically sound method of measuring

compliance levels from cargo examination through Entry Summary liquidation. We are using this compliance measurement system with a particular emphasis on NAFTA, since the system provides a baseline from which future progress can be measured. As a means of securing compliance under the NAFTA requirements OST is working cooperatively with all other Customs offices to assure that this is a successful joint effort.

### MONEY LAUNDERING AND ASSET REMOVAL PROGRAM

Question. How successful have your efforts been in targeting suspected money laundering and implementing the nationwide asset identification and removal program?

Answer. As part of our financial enforcement strategy, Customs has developed Asset Identification and Removal Groups (AIRGs), which are interdisciplinary groups composed of agents, forensic auditors, intelligence research specialists, and asset identification specialists. AIRGs target for seizure the assets of people and organizations suspected of laundering the proceeds of illegal enterprise. While parallel criminal charges are investigated and cases are developed against suspected violators, AIRGs investigate compliance with currency statutes. Before AIRGs, the investigation of violations took place after the arrests had occurred. By that time, it was often too late to locate and seize the currency and assets of criminal enterprises. Many times, these individuals and organizations had taken "corrective" legal action to protect their assets. With AIRGs, the investigation of an individual or an organization involved in multiple criminal enterprises is pursued as a "single proceeding," making it more difficult for criminals to evade law enforcement officials and protect their assets.

Customs has implemented AIRGs in twelve Special Agent in Charge offices in the United States. The agents selected for the groups are formally trained in asset identification and forfeiture at the Federal Law Enforcement Training Center (FLETC) by the Enforcement Training Staff and experienced senior special agents from field locations.

Customs is fully committed to using asset seizure and removal as a mechanism for destroying well organized criminal organizations. To measure the success of our efforts, one can look to the value of seizures which have resulted from outbound financial investigations conducted by Customs. In FY 1993,

Customs opened 1,171 investigations which resulted in the seizure of approximately \$62 million in currency and negotiable instruments. By comparison, Customs opened 1,516 investigations in FY 1994 which resulted in approximately \$144 million in currency and negotiable instruments.

#### TRANSSHIPMENT

Question. Has Customs made any progress in combatting illegal transshipments?

Answer. We feel we have made great strides in combatting illegal transshipment. "Jump teams" continue to be an important part of our effort to identify illegal textile transshipment. Since October, Customs has sent jump teams to ten countries, identifying a number of factories involved or suspected of being involved in textile transshipment. One jump team visit identified over \$8 million worth of completed garments (three containers) that were in the process of being transshipped through a third country. The three containers were seized by local authorities. U.S. Customs has identified 27 additional countries to be visited by the end of June, resulting in a total of 37 countries visited from October to June--with several countries visited twice.

In addition, based on Section 333(a), Subtitle D, of Public Law 103-465, Treasury will begin publishing the names of those manufacturers, exporters, and sellers involved in textile transshipment. United States importers entering products that were directly or indirectly processed by one of the foreign entities named on the list will be required to show to the satisfaction of U.S. Customs that they exercised reasonable care that the origin of the imported product is accurate. Once implemented, this should be an incentive for foreign entities not to become involved in textile transshipment.

U.S. Customs has created a new office, the Office of Strategic Trade, which has identified those commodities that are to be a primary focus for our activities. Textiles has been identified as one of those commodities. The Strategic Trade Textile Industry Team is currently working on nine intervention projects, five of which involve transshipment. This group is also instrumental in identifying countries to be visited by jump teams.

Finally, given the continuing financial incentives to transship, and that jump teams are most effective in countries with small to medium production capabilities, additional methods of scrutiny are being developed. Statistical data from larger, more developed countries displaying their imports and exports of textile merchandise, domestic production, and local consumption capacity are being analyzed. This will allow action to be taken on a broader range of transshipment sources than previous methods.

#### TREASURY FORFEITURE FUND

Question. Please detail how Treasury allocates funds to the various agencies which contribute to the Treasury Forfeiture Fund. How does Customs allocation compare to its contributions in FY 1996? In FY 1995?

The decisions on the distribution of resources from the Treasury Forfeiture Fund are made by the Treasury Under Secretary for Enforcement, based on recommendations of the Executive Office of Asset Forfeiture. The allocations of resources from the fund are based on the amount needed for equitable sharing payments to local governments for their participation in asset sharing cases, as well as the support needed for certain permanent expenses, such as property management contracts and administration of the fund and seized assets. Funds are also allocated for expenses related to the payment of information/payment of evidence and equipment.

The allocation process can be illustrated by examining what occurred in FY 1994. In FY 1994, Customs contributed \$140 million to the Fund, the largest contribution from participating bureaus. Customs was allocated a total of \$131 million, which was comprised of \$102 million in discretionary funds and \$29 million in funds for asset-related contract services. Customs expenditures for asset-related contract services benefit all bureaus participating in the Fund.

Allocations for FY 1995 are estimates.

	Customs Contribution	Allocated to Customs for Discretionary Purposes	Allocated to Customs for Contract Services
FY 1994	\$140 million	\$102 million	\$29 million
FY 1995 est.	\$133 million	\$99 million	\$35 million

Allocations for FY 1996 will not be made until this summer.

### HIDTA TRANSFERS

Question. Customs received a transfer of \$4.196 million in FY 1995 from the ONDCP. Provide a detailed breakdown of how and where these funds are being used. How do you plan to use ONDCP funds in FY 1996?

Answer. The tables on the next five pages contain information which detail the location, purpose, and amount of the original \$4.196 million transferred from the Office of National Drug Control Policy (ONDCP) which has been distributed nationwide for drug control purposes. Because the FY 1996 HIDTA planning process will not be initiated until June, there is no comparable information available for FY 1996.

San Diego Int'l Airport	A 9-member drug interdiction, investigative, intelligence gathering and prosecutorial task force.	\$3,000
Operation Alliance, Joint Task Force, San Ysidro, CA	A 59-member task force which conducts follow-up investigations of seizures made by both the Border Patrol and Customs Inspections between and at the ports of entry.	\$230,000

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Imperial Valley Multi-Agency Interdiction	Conducts multi-agency interdiction operations with all major Federal, State, and local agencies, including JTF-6.	\$330,000
San Diego Financial Task Force	A 42-member financial task force.	\$163,000
Operation Alliance, HIDTA Intelligence Group	An 8-member intelligence group on the border which identifies co-conspirators, assets, and determines interrelationships between members and organizations.	\$60,000
OIP-Wagon Train	Contributes to the dismantling of major drug conspiracies by using state of the art tracking and electronic surveillance equipment in the execution of controlled deliveries.	\$388,000
Predictive Analysis Team (New initiative)	Will assemble predictive intelligence to be utilized by all participating agencies, including those agencies which are affected by narcotics smuggling corridors within the West Texas-New Mexico HIDTA. Includes Wagon Train joint controlled deliveries.	\$240,000
Financial Task Force, El Paso, TX	An 11-member financial task force which is collocated with the Financial Disruption Task Force, which is focusing on an organization which specializes in money laundering.	\$138,000

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Aranda-Rodriquez, Presidio, TX	A 4-member task force which focuses on dismantling organizations which smuggle narcotics.	\$39,000
Border Response, El Paso, TX	Initiative to address port running.	\$84,000
West Texas HIDTA Executive Committee (New initiative)	Will administer the West Texas HIDTA.	\$27,000
Las Cruces HIDT <b>A</b> Task Force	A 22-member task force located in Southern New Mexico which focuses on dismantling organizations which smuggle narcotics.	\$18,000
Joint Intelligence Center	Responsible for providing analysis and data.	\$57,000
Bernalillo, New Mexico	A 14-member task force which focuses on disrupting and dismantling narcotics distribution networks.	\$17,000
New Mexico Money Laundering Task Force (New Initiative)	Located in Albuquerque and Las Cruces. Has the objective of disrupting money laundering organizations.	\$370,000
San Antonio Financial Task Force	A 16-member financial task force which conducts phased investigations of Mexican and Colombian smuggling organizations.	\$73,000

Operation Plague, Brownsville, TX	A 22-member multi-agency special operation focusing on drug-smuggling, money laundering, and intelligence.	\$93,000
McAllen Financial Task Force (Texas)	A 13-member joint financial task force which conducts global money laundering investigations.	\$80,000
Northern Exposure (Laredo)	An undercover operation which focuses on the dismantling of organizations which smuggle narcotics and launder money.	\$21,000
Del Rio Task Force	A 10-member joint task force which has targeted over 32 corporations and individuals for money laundering violations.	\$47,000
Tucson Financial Task Force	A 15-member financial task force which focuses on international narcotics smuggling and money laundering.	\$61,000
Santa Cruz County Drug Enforcement Unit	A 15-member task force located in Santa Cruz County which focuses on the disruption and dismantling of organizations which smuggle narcotics and launder money.	\$67,000
Drug-Related Public Corruption Initiative (DRECOIN)	A 7-member integrity task force which investigates corruption at the Federal, State, and local levels.	\$38,000
Phoenix Financial Task Force	A 3-agency effort in two locations. Task force focuses on the disruption and dismantling of organizations which smuggle narcotics and launder money.	\$145,000

SW Border Alliance Yuma, AZ	A 20-member task force which uses a multi-faceted investigative approach to address drug-trafficking and money laundering.	\$42,000
Arizona Alliance Law Enforcement Response Team (AALERT)	A 21-member response team which provides a linkage between interdiction and investigations through the use of controlled deliveries.	\$40,000
Cochise Border Alliance (Arizona)	The goal of the Cochise County HIDTA effort is to dismantle and disrupt significant drug trafficking and drug money laundering organizations.	\$43,000
"Eagle Eyes"	The primary objective will be to provide volunteer inspectors from different ports of entry (POEs) in the El Paso District to work at POEs at Columbus, Antelope Wells, and Santa Teresa.	\$11,000
Los Angeles (Metro HIDTA)	A 137-member joint task force involved in the dismantling of major international drug smuggling organizations.	\$49,270
Houston (Metro HIDTA)	A 95-member money laundering task force which traces illegal drug proceeds and identifies money launderers.	\$320,000
New York-Gangs (Metro HIDTA)	NYPDA 35-member NYPD-NYSP- DEA Gang Task Force which targets gangs involved in the trafficking of narcotics.	\$25,000

New York-El Dorado (Metro HIDTA)	El DoradoA 140-member financial task force with satellite offices in Nassau and Suffolk Counties.	\$760,000
Miami (Metro HIDTA)	A 250-member task force composed of 26 agencies which focuses on money laundering at the international, domestic, and regional levels.	\$116,480
TOTAL		\$4,195,750

### USER FEE ACCOUNTS

Question. What is the current cumulative surplus/deficit (excess of collections over expenses) in the Merchandise Processing user fee account, and the COBRA user fee account, respectively.

Answer. Merchandise Processing Fee collections, as of February 28, 1995, total \$263 million. This does not represent a surplus or a deficit, as no expenses are paid out of the Merchandise Processing user fee account. These funds go into the Treasury general fund, and are then used to offset Customs commercial costs.

As of February 28, 1995, the COBRA user fee account has a surplus, or unobligated balance, of \$374 million.

### FY 1996 BUDGET PROPOSAL

Question. What is the budget increase the Customs Service is requesting in FY 1996?

Answer. The only proposed increase in any of Customs accounts is an additional \$685,000 from the Violent Crime Control and Law Enforcement Trust Fund. This addition would be used to enhance Customs activities in border enforcement measures.

Overall, Customs budget request represents a decrease of \$38.7 million from FY 1995 levels.

# RECENT ALLEGATIONS

Question. Do you plan to use any of these resources in the FY 1996 budget to investigate into the recent allegations of corruption in the U.S. Customs Service which include a pattern of collaboration between drug traffickers and Customs agents?

Answer. Within the Customs Service, the Office of Internal Affairs has been authorized to investigate any allegation of corruption and criminal misconduct of Customs employees related to the performance of their official duties. Thorough investigations support honest employees while identifying the occasional unscrupulous employee, who can then be removed from his or her position within the Customs Service.

The Office of Internal Affairs has already begun looking into the recent allegations of corruption. It will continue to look into any allegations of corruption which arise in FY 1996, FY 1997, and beyond. Resources for the Office of Internal Affairs are provided on an ongoing basis. No additional funds are being proposed as part of the FY 1996 budget request.

Question. Is the Customs Service planning to restructure their department to respond to recent allegations of poor performance at the Southwestern border?

Answer. Customs is not restructuring its operations because of the allegations made in the L.A. Times or on the Dateline television program. The information and allegations used by the reporters were either incorrect or distorted. The Customs Service has had considerable success along the Southwest border over the past 12 years by being flexible and addressing the real threats for drug smuggling. For instance, it was Customs air program that stopped the widespread use of private aircraft to smuggle drugs across the border with Mexico.

The threats today are two-fold. The first is in the passenger vehicle area, as witnessed by the surge in violent incidents involving smugglers driving through ports at a high rate of speed. The second is in the cargo area. To address those threats, Customs has begun a long-term operation called HARD LINE. This operation focuses our resources on disrupting

and eventually reducing drug smuggling through our ports of entry. Approximately 50 special agents and patrol officers will be transferred to offices along the southern border to provide investigative support, participate in cross-functional intelligence teams, and provide a uniformed presence at the ports of entry. To deter port running and lessen the probability of violence against officers and innocent bystanders, modifications to the ports of entry will include the purchase and installation of jersey barriers, fixed and hydraulic bollards, improved lighting and communications, stop-sticks (controlled deflation of tires), and security cameras.

Question. Will any increased funds be used in the distribution of agents at the three ports of entry?

Answer. No.

### OPERATION HARD LINE

Question. How much of the FY 1996 budget will be used to fund "Operation Hard Line"?

Answer. No funding for Operation Hard Line is included in the regular FY 1996 budget request.

Question. If funds come from FY 1995 obligations, where are these funds transferred from?

Answer. The present plan is to use \$4 million from the 1995 Crime Bill and \$1 million from the Treasury Forfeiture Fund. In addition, the Administration is considering a possible supplemental request if a funding source can be determined to offset the increased cost.

Question. With increased budgets, do you expect a greater success rate at apprehending drug smugglers at the southwestern border?

Answer. HARD LINE complements the successful efforts of the United States Border Patrol between the ports of entry, including Operations HOLD THE LINE and GATEKEEPER, as well as the activities of the Customs Air Program, in the air space above the border, to create a unified Southwest border enforcement system.

Operation Hard Line is a creative and innovative response to a national problem. The smuggling of illegal narcotics generates enormous illegal activity and violence, which affects all of us. Customs strategy is aimed at reducing the flow of drugs into the United States and protecting the general public, as well as our law enforcement personnel, from the effects of the drug trade.

#### MEASURES TO PREVENT CORRUPTION

Question. What additional measures should be taken to ensure Congress that corruption within the Customs Service will be curbed?

Answer. The unsupported broad-brush allegations made in the newspaper article and television piece are easily made and difficult to counter. Many of the allegations made in the San Diego area were the same ones made more than three years ago by a disgruntled former employee. They were investigated by our Office of Internal Affairs, the Treasury Inspector General, or the U.S. Attorney for San Diego. All were found to be unsubstantiated.

As a matter of policy, Customs already takes a number of steps to prevent incidents of corruption within the Customs Service. We have random drug testing of inspectors, agents, and canine officers. We conduct random cross-cutting enforcement operations in front of the regular primary inspection lanes to make it difficult for a smuggling organization to predict when the best time is to send a loaded vehicle to a potentially corrupt officer. Finally, our Office of Internal Affairs vigorously investigates any specific allegation of corruption.

# THE FY 1994 BUDGET

Question. What was the budget increase between FY 1993 to FY 1994?

Answer. In FY 1993, Customs Service appropriations (P.L. 102-393) totaled \$1,469,433,000. In FY 1994, Customs Service appropriations (P.L. 103-123) totaled \$1,454,030,000. This represents an overall decrease of \$15,403,000, or a little over one percent, from FY 1993 to FY 1994.

Question. If there was an increase in resources between FY 1993 and FY 1994, what percentage of funds went towards drug interdictions at the southwestern border?

Answer. There was a decrease in Customs budget from FY 1993 to FY 1994; however, Customs maintained its drug interdiction efforts on the Southwest border. In total, the Customs Service devotes about 35 percent of its budget to drug interdiction.

### OPERATION HARD LINE

Question. Last Saturday, Commissioner Weise and National Drug Control Policy Director Brown announced a new initiative called "Operation Hard Line" to strengthen efforts to combat drug smuggling along the Southwest border. This new initiative is in response to changing trends in drug smuggling and a surge of violent confrontations with drug runners in ports. The proposed budget for this new initiative is \$12 million. Could you please describe this new initiative and indicate if the money to fund the initiative is already included in the President's FY 1996 budget or constitutes an addition to the President's budget.

Answer. Current estimates are that 70 percent of the cocaine smuggled into the United States crosses our common border with Mexico. In addition to the terrible toll the use of cocaine takes on our country, this illegal activity has generated a number of related problems, including disturbing trends of escalating violence at ports of entry which jeopardize the safety of Customs personnel and endanger the public.

In response to the massive narcotics threat, the Customs Service is implementing Operation HARD LINE to focus on permanently hardening our anti-smuggling efforts at the ports of entry. HARD LINE will build upon the successful United States Border Patrol operations between the ports of entry, including HOLD THE LINE and GATEKEEPER, and the successful efforts of Customs Air Program, in the air space above the border, to create a comprehensive and unified Southwest border enforcement system.

In order to enhance port enforcement and officer safety, Customs has identified various capital improvements, such as concrete barriers and hydraulic and pneumatic bollards, to greatly diminish, or totally eliminate, the problem of port

running. Rather than hiding drugs in false gas tanks or spare tires, port runners load their car's trunk with drugs, and, if confronted by an inspector, accelerate out of the inspection lane, often careening wildly. Several inspectors and local citizens have been nearly run over by port runners. Some cases resulted in shootings. Port running incidents jumped three-fold in 1994, to 795 reported cases.

The problem of narcotics smuggled in commercial conveyances and cargo will also be addressed through improved targeting and interdiction procedures, expanded use of full-container x-ray equipment, proactive investigative support by means of intense source development, and intelligence gathering and assessment. HARD LINE also proposes the staging of Customs Black Hawk helicopters in the United States to ferry Mexican counter-drug forces to arrest traffickers and seize narcotics in Mexico.

It is not included in the FY 1996 budget request.

# REQUESTED FUNDING IN FY 1996 FOR DRUG CONTROL ACTIVITIES

Question. Requested funding by Customs for drug control activities for FY 1996 is roughly \$420 million. Requested personnel levels are 4,924 FTEs. This is a reduction from the \$466 million and 5,113 FTEs budgeted by Customs for drug control activities in FY 1994. By contrast, during that same time, Customs funding for commercial operations has increased nearly 10 percent and personnel levels have increased by 4 percent. Why has Customs increased its resources for commercial operations and decreased them for combatting drug smuggling? Is this impeding Customs ability to carry out its drug enforcement functions?

Answer. The 200 FTE decrease in drug enforcement FTE between FY 1994 and FY 1996 is actually a reflection of the success of Customs air and marine programs in deterring airborne and seaborne deliveries of illegal narcotics. These programs were reduced in FY 1995, in part as a result of reduction in the threat of deliveries of illegal narcotics by these means. The increases in commercial programs reflect Congressional support of Customs role in American commerce.

### REDUCTION IN AIR PROGRAM FUNDING

Question. Since FY 1994, Customs budget for the air enforcement program against drugs has fallen from \$177 million to \$112 million, a decrease of nearly 36 percent. It appears that no other part of the Customs budget has been reduced so dramatically. Please explain why this is the case. Is our air program still funded at a level that makes it an effective enforcement operation?

Answer. The Aviation Program, like most other Federal programs, has to operate under greater fiscal constraints in FY 1995. The FY 1995 air program budget was reduced by approximately \$45 million. Customs placed 22 aircraft into long-term storage, redeployed aircraft, and reduced flight hours by approximately 30 percent.

Because of its success in reducing airborne smuggling directly into the United States, it is believed that the present threat is being adequately addressed with the remaining resources. Customs has streamlined its program and operations to achieve the types of economies and efficiencies which would maintain a viable interdiction capability. Moreover, Customs has placed a high priority on maintaining the infrastructure to include retaining all operating locations, aircrew, interceptor/tracker and enforcement/bust aircraft in order to flex back to an increased domestic interdiction response posture.

The proposed reductions in the FY 1996 operating level will be absorbed in the same manner of reducing flight hours and scaling back the Customs Citation interceptor training program in Mexico. The proposed FY 1996 base budget of \$60.993 million will be supplemented with \$20.1 million in funding from unobligated carryover balances. This additional funding from unobligated balances will not be available for FY 1997.

# RESOURCES SPLIT BETWEEN COMMERCIAL AND NON-COMMERCIAL USES

Question. The proposed Customs budget for FY 1996 devotes approximately 60 percent to commercial operations and 40 percent to non-commercial operations (such as drug enforcement, control of illegal exports, control of child pornography, and support of the enforcement efforts of other agencies like USDA). How does

this compare with historical trends in Customs allocation of resources?

Answer. As you can see from the table below, Customs has maintained this split in the allocation of resources for some time.

# U.S. CUSTOMS SERVICE

# **SALARIES & EXPENSES**

# Resources Split Between Commercial and Non-Commercial Use

	Commercial		Non-Commercial		Total			
	FTE	<b>\$000</b>	FTE	<u>\$000</u>	FTE	<u>\$000</u>		
1990	10,076	618,246	6,430	436,633	16,506	1,054,879	1/	
1991	10,069	668,110	5,977	486,864	16046	1,154,974	2/	
1992	10,871	754,581	6,540	511,724	17411	1,266,305	3/	
1993	10,130	733,428	7,077	591,616	17207	1,331,420	4/	
1994	10,361	769,915	6,605	584,406	16966	1,354,321	5/	
1995	10,841	847,674	6,368	544,977	17209	1,392,651	6/	

# FOOTNOTES:

# DATA

- 1/ FY 1990 Actual FIE Level; FY 1990 Actual Obligation Level
- 2/ FY 1991 Actual FTE Level; FY 1991 Actual Obligation Level
- 3/ FY 1992 Appropriated FTE Level; FY 1992 Appropriated Funding Level
- 4/ FY 1993 Actual FTE Level; FY 1993 Actual Obligation Level
- 5/ FY 1994 Actual FTE Level; FY 1994 Actual Obligation Level
- 6/ FY 1995 Appropriated FTE Level; FY 1995 Appropriated Funding Level

Chairman CRANE. I would now like to invite Mr. Shapiro to come forward.

Mr. Shapiro, actually, we are going to give you a double assignment. You might address first the question of USTR and then if you would be so kind, after having completed that, get into the question of GSP extension.

# STATEMENT OF IRA SHAPIRO, SENIOR COUNSEL AND NEGOTIATOR, OFFICE OF THE U.S. TRADE REPRESENTATIVE

Mr. Shapiro. Thank you, Mr. Chairman.

If I may, Mr. Chairman, this is my first time here with you in the chair, and I simply wanted to add on the record what I said before, which was that any of our success in trade policy in the last couple of years has been because of bipartisan support. We have worked very hard in this committee with both Republicans and Democrats at the member level and staff level, and we have always been grateful for the working relationship. I know Ambassador Kantor and the rest of us intend to continue it to the best of our ability.

Mr. Chairman, it is a great pleasure to be here to present USTR's budget authorization request and also to discuss the administration's strong support for extending the GSP Program. I will try to keep my remarks brief and hope that my full statement can

appear in the record.

Mr. Chairman, the administration is proposing a 2-year extension of the authorization for appropriations for USTR. For fiscal year 1996, we are recommending an authorization of \$20,949,000. For fiscal year 1997, we are recommending an authorization of

such sums as may be necessary.

The 1996 authorization request would match the President's budget request for that year, and the such sums language for fiscal year 1997 is intended to leave maximum flexibility in setting USTR's appropriation level for the fiscal year that begins 19 months from today.

For both years, Mr. Chairman, we would propose to retain the existing limitation of \$98,000 for representation activities and \$2.5 million for the amount that can be carried over from one fiscal year

to the next.

Mr. Chairman, essentially, the authorization level we are asking for is a no-growth level. These are levels that we believe will consistently challenge us to economize and to try to find ways to con-

tinue to operate efficiently.

Mr. Chairman, I believe that we can all take some pride in the accomplishments of the past 2 years in trade that USTR has been involved in. We were involved in the creation of the largest hemispheric free trade zone in the world, the completion of the negotiations and the congressional approval of the broadest global trade agreement in history, and, beyond that, by our count 71 trade agreements and investment agreements in the past 24 months.

From our standpoint, the record doesn't end there because we have also worked hard to set the stage for more expansion of trade and more jobs for American workers in the future by reaching agreements and setting realistic and achievable goals to reduce trade barriers with countries in APEC, the Asia-Pacific Economic

Cooperation forum, and with the 34 nations of Latin America. As you know, these are the fastest growing markets in the world and they will be in the future significant opportunities for U.S. exports, and nothing that we have accomplished to date could have been accomplished without the bipartisan support of Congress.

But if I could leave one message with the subcommittee today, it would simply be to say that our work is far from done. In fact, the conclusion of NAFTA and the Uruguay round opens the door

to a whole new phase of work for us in the years to come.

Ambassador Kantor has set two priorities for the agency. The first is to implement and enforce our existing trade agreements and the second is to expand trade for the increase of U.S. products and services around the world.

I just want to say a word about this implementation issue, because we take it very seriously, and I want to try to convey simply

how important it is and that it is resource intensive as well.

Mr. Chairman, recently, one of our staff indicated to me that she had spent 90 percent of her time 1 year in the implementation and carrying out of the semiconductor agreement several years ago that we entered into between the United States and Japan. And I think that is indicative of the fact that trade agreements are important and we have worked hard for them, but that is only the first step.

And with respect to all the agreements—from the WTO to NAFTA to our 14 bilateral agreements with Japan to the intellectual property agreement that we are quite pleased about that we entered into just yesterday with China—the enforcement and implementation of these agreements is very serious, and it requires a commitment of staff that we intend to make with the committee's support.

The other thing that I will mention is that we have a number of ongoing 301 cases, investigations which require considerable effort on our part, ranging from the European Union's import regime on bananas to Japan's practices in the aftermarket for auto parts,

to Korea's barriers to our beef exports.

We will continue to use our trade laws and to carry out the law as Congress has told us to to aggressively try to open markets and make these agreements work for U.S. companies and, most impor-

tant, for U.S. workers.

Mr. Chairman, Ambassador Kantor has often said there is nothing that is academic about what we are doing here. This is part of an economic agenda designed to create jobs and expand opportunities for our workers around the country, and that is what we intend, with your support, to continue doing.

Let me just add 2 or 3 minutes on GSP and then, of course, re-

spond to any questions you have.

The GSP Program expired on September 30, 1994, but in the Uruguay round implementing legislation, Congress reauthorized the program, extended essentially without modifications through July 31, 1995. The administration supports the reauthorization of the GSP Program and continues to believe that it is an important program.

It is a program that, by eliminating import duties in certain product areas, provides a market-based incentive for trade and development. Congress since 1974 has been supportive of the view that developing through trade rather than aid was an appropriate course, and we think GSP is still an important tool in that regard.

It has also been over the years a flexible and effective mechanism for furthering our trade policy agenda in the areas of market access, asking other countries to assume their responsibility for open markets and joining the trading system, in the area of intellectual property, and also in the area of workers' rights.

Mr. Chairman, last year, you will recall that the subcommittee approved some program reforms which I think are fairly described as relatively modest, but constructive reforms that we think will make the program work better. Those reforms included putting into statute the so-called 3-year rule so that products would only

be added or could only be added once every 3 years.

You would not have to go through the process of reviewing individual products each year. We also in that reform proposal had included a change in the competitive need limit, lowering that competitive need limit, which is the limit at which trade can occur in a product line and still be eligible for GSP—we had lowered it from \$108 million, I believe, to \$75 million, and kept in effect the notion of a waiver for appropriate cases.

We had also recommended, and the subcommittee had endorsed last year, the idea of a reduction in the per capita income level of countries that would be eligible for GSP from \$11,000 to \$7,000 per

capita.

And finally, we had added provisions to make sure that additional benefits would be available for the least of the less-developed nations, because I think a review that we have had of the GSP Program suggests that the LDCs were not getting as much support and encouragement through removal of tariffs as we would have liked.

We have looked at that proposal again, Mr. Chairman, and we would recommend to the subcommittee that the administration support those reforms as approved by the subcommittee last year. We would support GSP and the reforms in the program, as such.

On the difficult area of funding, we are prepared to work with the Congress to try to figure out the funding for the program and put it on a somewhat more stable basis. There is no question, as you commented, and as I believe Mr. Payne commented before he left, that this program will be stronger if it is funded on a multiyear basis, and the last 2 years, when we have had 12-month extensions or 10-month extensions, have created a good deal of uncertainty.

We are aware, obviously, as you are, of the fiscal constraints. We can only say that we would like to work with you to see if between USTR, OMB and the committees that we can find a way to fund this program more securely.

Mr. Chairman, that concludes my remarks. I am happy to respond to any questions about our authorization or the GSP Pro-

gram.

[The prepared statement follows:]

Testimony of Ira Shapiro
Senior Counsel and Negotiator
Office of the United States Trade Representative
Before the Subcommittee on Trade
Committee on Ways and Means
United States House of Representatives
February 27, 1995

#### Mr. Chairman:

It is my pleasure to appear before the Subcommittee today to present the budget authorization request for the Office of the United States Trade Representative and to discuss the Administration's support for extending the Generalized System of Preferences program. This morning, I would also like to highlight some of the enforcement actions taken by the Administration in the last two years, and describe our commitment to enforcing trade agreements in the next two years.

As members of the Subcommittee know, the Office of the United States Trade Representative has an enormous mission: to develop and coordinate U.S. international trade, commodity, and traderelated direct investment policy, to articulate trade policy for the Administration, and to lead negotiations with other countries on these matters.

This is a mission that USTR tackles with great enthusiasm and dedication. The agency gets the job done with a small, but highly motivated, professional staff that is dedicated to promoting U.S. economic interests. The 166 FTEs proposed for FY 1996 is complemented by personnel support from other Federal agencies and by students and interns. Together, these staff have helped produce remarkable results, and will continue to be challenged in carrying out the tasks that lie ahead.

#### Two-Year Authorisation

We are proposing a two-year extension of USTR's authorization of appropriations, for fiscal years 1996 and 1997. The Administration's request recommends an FY 1996 authorization level of \$20,949,000, the same as the level appropriated for FY 1995 and the amount requested in the President's Budget for FY 1996. The authorization request for FY 1997 is such sums as may be necessary.

For each fiscal year, the Representation fund authority would remain at \$98,000, and the amount available to be carried over from one fiscal year to the next would remain at \$2,500,000.

In short, Mr. Chairman, the Administration is recommending straightforward extensions of existing authorizations.

#### Recent Accomplishments

The Administration and the Congress can take pride in what has been accomplished on trade since President Clinton took office two years ago. The Clinton Administration, in tandem with a bipartisan coalition in Congress, has achieved the most important two years in trade in history.

Working together, we created the largest hemispheric trade zone in the world, through enactment of NAFTA; we concluded and approved the broadest trade agreement in history, the Uruguay Round; we negotiated 38 agreements on Textiles, 14 agreements with Japan; 15 bilateral investment treaties, and four intellectual property rights agreements. We also negotiated an agreement covering 80 percent of global shipbuilding.

In the last two years, the Administration has also set the stage for future trade expansion with Asia and Latin America.

At the 1993 Leaders meeting in Seattle, the President reached agreement with countries of the Asia Pacific Economic Cooperation forum to eliminate trade barriers by the year 2010 for developed countries and by 2020 for non-developed nations.

Last December, at the Summit of the Americas, President Clinton hosted an historic meeting of 34 nations of Latin America. The democratically-elected leaders of those nations enthusiastically endorsed the U.S. proposal to construct "The Free Trade Agreement of the Americas" by the year 2005.

### Full Agenda for the Future

The work that lies ahead in the next two years will be every bit as important as what has been accomplished in the last two years. With completion of some 71 agreements since January 1993, our trade agenda is now entering a new phase. We will implement the agreements we have reached, and lay the groundwork for future opportunities to open markets and expand trade.

The Administration's efforts will fall under two broad goals: first, implementation and enforcement of existing agreements; and second, expansion of trade to increase exports.

# <u>Implementation</u>

Ensuring that the World Trade Organization is constructed with U.S. interests in mind is a high priority for USTR and the Administration. This goes beyond selection of a new Director General. Councils must be set up and agreements need to be interpreted. We also need to make sure that other countries live up to their commitments under the WTO. Finally, we need to be sure that an effective, efficient and strong dispute settlement

system is in place. All of this will require close monitoring.

#### Enforcement

Enforcement of both international trade agreements and U.S. trade laws underpins the Administration's approach to trade and will use every enforcement mechanism available to us to make sure that others live up to trade agreements. These enforcement mechanisms include: Section 301, our principal tool for addressing foreign unfair trade practices; Special 301 used for enforcing violations of intellectual property agreements; the Antidumping and Countervailing Duty laws, which we will use under both NAFTA and the Uruguay Round; Title VII for enforcement of procurement agreements; and Section 1377 of the Omnibus Trade and Competitiveness of 1988 for enforcement of telecommunications agreements.

The policy of this Administration is to remain tough in vigorously enforcing trade agreements. Those agreements are only as good as our commitment to enforce them. Monitoring and enforcement activities will be priority activities for this agency through FY 1997.

# FY 1996 Budget Request

The FY 1996 budget request for USTR will support USTR's work agenda for that year. This request represents the right resource level for allowing USTR to carry out the ambitious work agenda that lies ahead, and for ensuring that we do our small part in the President's broader effort to reduce the size of Government and to make it work more efficiently.

Our request for FY 1996 provides the same funding level as FY 1995, and reduces employment by 2 FTEs. We are confident that we can sustain the current operations at the President's budget request level. We will absorb nearly \$500,000 during FY 1996 from the rising cost of doing business by reducing administrative costs and continuing to make the agency operate more efficiently.

As you know, the President's FY 1996 Budget requested \$20,949,000 for USTR. At the same time, as part of the President's Reinventing Government Initiative, all Federal agencies are re-examining their mission. This includes: addressing the mission based on "customer" input; asking whether the mission could be accomplished as well or better without Federal involvement; looking for ways to cut cost or improve performance through competition; and ways to put customers first, cut red tape, and empower employees. We are actively participating in this effort and will be keeping the Committee fully apprised of our review.

### Generalized System of Preferences

I would now like to turn to the GSP program. The Generalized System of Preferences program, GSP, is authorized by Title V of the Trade Act of 1974. The GSP program expired on September 30, 1994. Due to the bipartisan leadership of this committee, the Uruguay Round Agreements Act reauthorized the program, without modification, until July 31, 1995.

Let me briefly describe the GSP program and explain why the Administration supports its reauthorization.

The GSP program offers duty-free access to the U.S. market for specified products that are imported from designated developing countries and territories. By granting tariff preferences, the GSP program reflects the U.S. commitment to an open world trading system.

The program has three broad goals:

one, to promote economic development in developing and transitioning economies through increased trade, rather than foreign aid;

two, to reinforce our trade policy agenda by encouraging beneficiaries to open their markets, to comply more fully with international trading rules, and to assume greater responsibility for the international trading system; and

three, to help maintain U.S. international competitiveness by lowering costs for U.S. business, as well as lowering prices for American consumers.

By eliminating import duties -- that is, cutting "taxes" -- the GSP program provides a market-based incentive for trade and development. The GSP program fosters development, and this, in turn, creates growing markets for American exports and American workers.

The GSP program is an important aspect of our support for democratic and market reform in Central and Eastern Europe and the former Soviet Union. Favorable access to our market offers an opportunity for entrepreneurs in these emerging democracies to earn hard currency. In this way, the GSP program supports the political and economic reform in the former Soviet Bloc.

The GSP program is important to the U.S. business community because it eliminates duties on imported parts and components. This enables U.S. business to maintain its global competitiveness. The GSP program is valuable to retailers and American consumers because it effectively lowers prices on consumer products. Finally, it is a flexible and effective means

of furthering our trade policy agenda.

For these reasons, the Administration believes that the program should be renewed.

At present, more than 140 developing countries and territories are eligible for duty-free treatment on about 4,400 of the 9,400 product categories in the Harmonized Tariff Schedule of the United States.

In 1994, there were \$18.4 billion in duty-free imports under the GSP program, accounting for approximately 16 percent of total U.S. imports from GSP beneficiary countries and 3 percent of total U.S. imports. Some of the leading product categories are consumer electronics, computers (i.e. ADP machines), auto parts, and toys and dolls. In 1993, Mexico was the single largest beneficiary, accounting for \$5 billion of the total, but it became ineligible for GSP benefits on January 1, 1994, with the implementation of the North American Free Trade Agreement. Current leading GSP beneficiaries include: Malaysia, Thailand, Brazil, The Philippines, Indonesia, India, Argentina, Venezuela, Russia, Chile and Turkey.

To qualify for GSP privileges, each beneficiary must meet various eligibility requirements. These include market access, worker rights and intellectual property rights. The products that are eligible for the GSP program are products that are not considered "import sensitive". In addition, the GSP statute excludes certain products from the GSP program altogether -- for example, footwear, textiles and apparel. Each year, USTR conducts a review process in which products can be added to, or removed from, the GSP program, or in which a beneficiary's compliance with the eligibility requirements can be reviewed.

Each review of a beneficiary's compliance with the eligibility requirements requires extensive fact-finding and analysis of a beneficiary's law and practice. In most cases, the GSP review process encourages the reform of a country's labor or IPR law, or a firm commitment to take steps to adhere more fully with applicable international standards and practices.

Let me now briefly describe the efforts last year to have the GSP program renewed by the Congress.

In 1994, the Administration, working in close cooperation with this Subcommittee, sought to have the GSP program reauthorized by Congress as part of the Uruguay Round implementing bill. The Administration's proposal would have made some modest reforms to the GSP program. The proposal was modified and approved by this Subcommittee.

The proposal would have made a number of technical changes to the

GSP statute and regulations. These changes would have simplified and improved the administration and operation of the GSP program. For example, the proposal would have codified the so-called three-year rule, by providing that products may only be considered for addition to the GSP program every third year. The proposal would have reduced the per capita GNP limit in the GSP statute from about \$11 thousand per capita to about \$7 thousand per capita. The proposal also would have reduced the so-called Competitive Need Limit (CNL) from about \$108 million to \$75 million, but it would have retained the authority to waive the CNLs under certain circumstances. Finally, the proposal would have authorized additional GSP benefits for the least-developed developing countries.

Let me conclude my remarks on GSP by noting that the Administration believes that the GSP program has been effective in encouraging trade and development in beneficiary countries and that the GSP program has contributed to the competitiveness of many U.S. companies. We recognize that continued support for unilateral tariff concessions depends, at least in part, on the extent to which GSP beneficiaries assume greater responsibility for the world trading system by, for example, opening their markets and adhering fully and promptly to the Uruguay Round agreements. This is particularly true for the more advanced beneficiaries. Indeed, the Administration expects that, with the progressive development of their economies, such beneficiaries would participate more fully in the framework of rights and obligations under the GATT/WTO.

In fact, we believe that the GSP program has operated as an effective incentive, or "carrot", for beneficiary countries to assume greater responsibility for the world trading system by, for example, taking commensurate steps to protect intellectual property rights and to provide basic worker rights.

The Administration supports the GSP program and we are prepared to work with you, Mr. Chairman, and the Members of this Subcommittee to secure the longer-term renewal of the GSP program. We believe that longer-term renewal is necessary in order to preserve the program's strengths, but are cognizant of fiscal constraints. We have carefully re-examined the GSP reform proposal that was approved by this Subcommittee last year. The Administration supports that proposal, and we believe that it merits full and serious consideration.

Thanks you, Mr. Chairman and Members of the Subcommittee. I would be happy to answer any questions that you may have.

Chairman CRANE. Thank you.

Inasmuch as our economy over the past several years has grown, thanks to increased trade, the importance of looking to future expanded trade opportunities becomes clear, and that includes free trade agreements, hopefully, down the line with Pacific rim countries, but most immediately, this year with Chile. Will you and your staff be able to work at the same level to open new markets with the requests that you are making for a cutback, admittedly modest, but a cutback in personnel and without a funding increase?

Mr. Shapiro. Mr. Chairman, I think that we have essentially requested a level budget. We are down, I believe, two FTEs in this request, and we think that this is adequate for us to do the important work we have got, and at the same time to participate in the effort that the administration and Congress are making to keep the

size and cost of government down.

Obviously, we have in the past 2 years devoted a considerable amount of resources to finishing the Uruguay round, and we will be reallocating resources, but we think that we can do the job with what we have asked for.

Chairman CRANE. Do you have a timeframe that you would like

to see implemented for CBI parity?

Mr. SHAPIRO. Mr. Chairman, Ambassador Barshefsky testified some weeks ago before you, and I can't add much to what she said with respect to CBI parity. We support the program, want to work through this, but I don't have a specific timeframe today.

Chairman CRANE. When do you plan to begin negotiations with

Chile over the Chilean free trade agreement?

Mr. Shapiro. We have begun consultations with our NAFTA partners and with the Chileans at certain levels. Our first step was to review the whole NAFTA to analyze what steps would have to be taken for Chile to accede. We have a group going down to Mexico City next week to meet with our NAFTA partners and to talk about this. I think realistically we are hoping to begin formal negotiations some time in May.

Chairman CRANE. Have you got a target for the successful completion of the negotiations?

Mr. Shapiro. I don't want to tie the hands of those who are negotiating it, and I don't have responsibility for it, but I am hoping that we could complete this some time later this year.

Chairman Crane. I hope so, too. I think it is vital that we get

it completed before the year is out.

Thank you. Mr. Hancock.

Mr. HANCOCK. No questions. Chairman CRANE. Mr. Rangel.

Mr. RANGEL. Let me thank you for the fantastic agreement that was reached over the weekend. It was 2 years of hard work, and from what I read and heard, it was a real win-win for the United States of America. Do you have any idea as to what will be, in dollars or in taxes, the increase in U.S. exports in movies, videos, books, music, and computer software?

Mr. Shapiro. Mr. Rangel, I would have difficulty quantifying it. We believed that the piracy that was rampant and has been rampant, was costing us, our industries, at least \$1 billion a year. Part of this agreement that we are pleased about, not only addresses the piracy, but also opens the market for legitimate U.S. copyrighted and trademarked works.

But the market in China is such and the difficulties of predicting it are such, that I wouldn't want to venture much of a guess. I think that we will benefit considerably by billions of dollars in the coming years, but I do think we are all going to have to work very

hard to ensure that the agreement is implemented.

If I could add one thing that I know Ambassador Kantor and Ambassador Barshefsky feel strongly about; I believe the success of this agreement owes a great deal to the strong support we had from Congress and from the private sector. And when I say the private sector, while I have great appreciation for what our copyright industries did and the support they gave us, a lot of the other U.S. industries that have interests in China, including some that stood to lose if we got into an exchange of retaliation, were also very strongly supportive, and it made a great deal of difference.

Mr. RANGEL. On another subject, in Florida it appeared as though your shop and the President made a commitment to the Caribbean countries as relates to parity to NAFTA. Could you tell me the depth of that commitment because some of the Caribbean

countries don't know where we are now on this?

Mr. SHAPIRO. We have made that commitment and we are going to be pursuing the legislation through the interim trade program during this year. That commitment stands. While I am not working

on it personally, Ambassador Barshefsky is.

It is a commitment that I felt strongly about because I had occasion last year to go to a gathering of the heads of States of the Caribbean basin and state our support for it, and it was a disappointment that circumstances were such that we didn't get it done last year.

Mr. RANGEL. I note that while our diplomats discuss legal trade, I assume that there are some countries as it relates to narcotics,

that you are never aware of?

Mr. SHAPIRO. I am sorry, I couldn't hear that.

Mr. RANGEL. Knowing how difficult it is to get language in NAFTA and other agreements as it relates to narcotics, I assume that in your negotiation over these positive things that the question never reaches your table at all; is that correct?

Mr. Shapiro. No, actually the Justice Department has been taking the lead in that. That hasn't been something we have been in-

volved in. I am sorry, I couldn't hear you.

Mr. RANGEL. It would really be out of protocol for you to raise

these things—is there a restriction other than Justice?

Mr. Shapiro. No, Mr. Rangel, there isn't a restriction, and over the years, we have on occasion talked about things that go beyond our mandate. But I know that in terms of the work that was done recently with respect to the financial package for Mexico, there was a considerable amount of emphasis placed on law enforcement issues, and, obviously, Justice took the lead in that.

Mr. RANGEL. After the administration changed the methods of guaranteeing the loans, what happened to those agreements? Are

they still valid? The side agreements?

Mr. Shapiro. My understanding, and I am skidding onto thin ice here, because I haven't been that involved in the package, but my understanding is there are understandings or side letters between the Department of Justice—the U.S. Government through the Department of Justice and the Mexican Government.

Mr. RANGEL. Does that mean these letters are secret?

Mr. SHAPIRO. I may have to fall back on this. If not above my pay grade, it is at least to the sides of my pay grade.

Mr. RANGEL. Will you find out?

Mr. SHAPIRO. Yes.

[The following was subsequently received:]

Although the Department of Treasury is the lead administration agency on the Mexican financial support package, I understand that the agreements were financial in nature and in particular, there are no side letters on law enforcement and narcotics. As the President and the Secretary of Treasury and State have stated, the United States has an enormous stake in belong Mexico restore prosperity over time.

ed States has an enormous stake in helping Mexico restore prosperity over time.

Our relationship with Mexico goes well beyond the financial and economic, of course. We work closely with Mexico through various mechanisms to address our concerns in such areas as immigration, narcotics, law enforcement, labor and the environment. The financial support package, by stabilizing the Mexican economy, also sustains reforms in those areas.

Mr. RANGEL. Thank you, Mr. Chairman.

Chairman CRANE. Mr. Houghton.

Mr. HOUGHTON. Thank you, Mr. Chairman.

Two questions. One is sort of a technical question. The question is about denied petitions. Do you think there should be an enforceable time period for resubmission of technical petitions?

Mr. SHAPIRO. I can't tell if it is the acoustics or my hearing today, but I had trouble with that question. Could you repeat it?

Mr. HOUGHTON. Should there be a readily enforceable time period for resubmission of denied petitions?

Mr. Shapiro. Denied petitions in the GSP area?

Mr. HOUGHTON. Yes.

Mr. Shapiro. Mr. Houghton, the reference I made to the socalled 3-year rule pertained to that question, so that if a petition was made with respect to a particular product and it was denied, it would not come up again for a period of 3 years. You couldn't bring it up each year. Beyond that, it is on the merits.

Mr. HOUGHTON. OK. I may want to follow that up a little later.

Let me go on to the more general question.

We have known each other over the past a little bit, and I hope I am a follower of free trade and a believer in this, but I also think that there has to be proper enforcement mechanisms, and you know there are various things that I worry about in terms of some of the macronegotiations, and also particularly in negotiations with Canada and Mexico. I just hope we are not going to retreat on some of these things which have permitted free trade and fair trade as we go forward with certain of the negotiations and loosening up on some of our approaches to trade between these two countries?

Mr. SHAPIRO. Well, Mr. Houghton, in 1993 in Geneva and in 1994 here on Capitol Hill, I was one of the people who was greatly involved in trying to keep our trade laws strong and felt that that was consistent with what we were doing in our trade agreements.

I believe that opening markets, expanding trade on the export side is important, but I also believe that our trade laws, such as the dumping law that you have taken such an interest in over the years, is an important part of keeping trade both free and fair.

In terms of anything that we are doing, and you may be referring to our work with the Trade Remedy Working Group with respect to Canada and Mexico, we will keep very much in mind the importance of our strong trade laws. We had a commitment, CFTA and NAFTA and subsequent to that, that we would discuss with our trading partners some of the implications of an integrated North American market, but we have indicated when we talked with them that we start out a considerable distance apart. They sometimes see our laws as the problem, and we sometimes see their practices as the problem.

Mr. HOUGHTON. But the administration has no intention of relax-

ing our trade remedies; is that right?

Mr. Shapiro. That is correct. That is correct. We are and will continue to talk with our partners about what if any implications there are in terms of the North American market but that is consistent with maintaining trade laws that are strong.

Mr. HOUGHTON [presiding]. Thank you very much.

Since I guess I am in the chair at the moment, then I would like to ask Mr. Ramstad if he would like to inquire.

Mr. RAMSTAD. Thank you.

Mr. Shapiro, I am not certain you are the right person to answer this. I am asking it on behalf of my colleague Ms. Dunn. Currently, USTR has 6 FTEs on detail in the ITC. What impact would rescission of these detailees have on your agency?

Mr. Shapiro. It would have a significant impact, Mr. Ramstad. I know Ms. Dunn had raised a question with the ITC. We are actually quite reliant on detailees, not just from the ITC but from around the government. Over the years, the State Department has

been particularly helpful.

The philosophy that we have tried to follow is basically to keep the core personnel of USTR small and then to add detailees in particular areas that are hot at any given time. We think it is far better to, say, to keep us at 168 or 166 FTEs and then add some detailees, than it would be to take on the costs of additional permanent employment, and so the flexibility of working the way we have I think has been successful.

Mr. RAMSTAD. Do you presently have detailees from other agencies as well?

Mr. SHAPIRO. Yes, we do.

Mr. RAMSTAD. Could you, for the record, provide the name of the sponsoring agencies, the position, grade level and proposed length of assignment for each detailee?

Mr. SHAPIRO. We will provide that.

Generally, we fluctuate between 35 and 45 detailers at any given time, and the rundown at the moment indicates that we have 10 from State, 6 from ITC, 5 from Agriculture and then a spattering from around other agencies.

[The following was subsequently received:]

### OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE <u>Questions for the Record</u> **Hearing on Select FY96 Budgets**February 27, 1995

#### FY96 Budget Proposal

#### Question 1:

Will additional staff be required to meet trade liberalization goals laid out last year at the APEC meeting in Indonesia and at the Summit of the Americas? How do you plan to reallocate resources to meet these goals?

#### Answer:

Expanding trade with countries of the Asia Pacific Economic Cooperation (APEC) and with nations of Latin America is one of USTR's highest priorities. However, we will not require new resources in FY 1996 to meet these trade expansion goals. USTR is committed to manage priorities within budget, and will mobilize every resource needed to meet our goals.

We have already taken several steps to reallocate resources on these priorities. First, we are adding new staff in each area. Earlier this year, we hired a new trade policy expert to help manage trade activities with APEC countries. In March, we are hiring an international economist dedicated to Mercosur and the trade initiatives in Latin America. In addition to the new staff, we will also redirect the efforts of our sectoral offices (e.g. Industry, Services, Environment) and our support offices (e.g. General Counsel) on APEC and Latin America. In this way, the collective experience and energies of USTR's personnel will be directed to these priority regions.

With respect to Latin America, this year we combined USTR's North America and Latin America offices into a single Office of Western Hemisphere, under the day-to-day direction of one of our most accomplished career employees. The combination of these offices allows USTR to coordinate the experience gained from the NAFTA agreement with the challenges presented by potential agreements with chile and other Latin America nations.

#### Ouestion 2:

USTR currently has 6 FTE on detail from the ITC. What impact would a rescission of these detailees have on your agency? Does USTR have any detailees from other agencies? If so, please provide the name of the sponsoring agency, the position and grade level, and proposed length of assignment for each detail.

#### Answer:

Rescinding the six details from the International Trade Commission would have a substantial adverse effect on USTR operations. USTR relies heavily on all of its personnel details, and especially those from the ITC, to carry out its mission.

The ITC detail program provides benefits to both USTR and ITC. USTR obtains high calibre expertise in international economics and trade, which we target in areas of greatest need. For ITC, the detail program offers an excellent training and career advancement opportunity. A one year assignment at USTR offers an ITC employee the chance to participate in negotiations with other countries, or to assist in formulating or coordinating the development of U.S. trade policy. Consistently, ITC employees detailed have described the experience as challenging, rewarding and career-enriching.

The concept of rotating personnel details at USTR offers one other important benefit. It gives USTR the added flexibility match priority program needs in a given year with the pool of specialized economic and trade job skills that employees possess in agencies like the ITC. This match of program priorities with specialized job skills represents an efficient and effective way to respond to changing trade issues, without building a large bureaucracy at USTR.

USTR has other personnel details, aside from those received from the ITC. A summary of details follows.

#### Personnel Details to USTR as of March 1995

Sponsoring Agency (duration of detail) Department of State (6/94-6/95) Department of State (6/94-6/95) Department of State (6/93-6/95) Department of State (6/93-6/95) Department of State (6/93-6/95) Department of State (7/94-7/95) Department of State (7/94-7/95)

Position
(Salary)\*
Senior Economist
(\$50,000)
Senior Advisor on Latin America
(\$61,470)
Director, European Free Trade Area
(\$43,700)
Deputy Director for APEC Affairs
(\$70,000)
Deputy Director for Mexican Affairs
(\$55,592)
Director of Services
(\$66,380)

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Department of State
                                Director, European Industry and
(7/94-7/95)
                                Technology ($66,698)
Department of State
                                Attache (Geneva)
                                ($76,698)
(8/92-8/95)
Department of State
                                Director, Intellectual Property
(7/94-8/95)
                                ($86,589)
Department of State
                                Director, Commercial Space
((8/94-8/95)
                                ($66,380)
                                Director, Commodity Policy & Non-Perrous Metals ($79,535)
Department of State
(9/94-9/95)
                                White House Fellow**
Department of Defense
(9/94-8/95)
                                ($70,000)
Cambridge Fellow
                                Cambridge Fellow***
                                ($22,000)
(9/94-8/95)
Department of Agriculture
                                Attache (Geneva)
(8/92-8/95)
                                ($74,711)
Department of Agriculture
                                Attache (Geneva)
($48,745)
(10/94-undetermined)
Department of Agriculture
                                Secretary (Geneva)
(11/93-11/95)
                                ($33,169)
Department of Agriculture
                                Senior Economist
(1986-indefinite)
                                ($73,124)
                                Secretary
Department of Agriculture
(1980-indefinite)
                                ($26,572)
                                Assistant Director for Steel Trade
International Trade Comm.
(6/94-3/95)
                                Policy ($35,045)
International Trade Comm.
                                Assistant to AUSTR for GATT Affairs
(12/94-12/95)
                                ($37,383)
International Trade Comm.
                                Deputy Director, GSP
(1/94-12/95)
                                (\$64,926)
International Trade Comm.
                                Trade Analyst (Textiles)
(1/95-1/96)
                                ($46,242)
International Trade Comm.
                                Trade Analyst (Agriculture)
(2/95-2/96)
                                ($36,171)
International Trade Comm.
                                International Economist
                                ($51,552)
(3/95 - 3/96)
Fed. Communications Comm.
                                Attorney-Advisor
(10/94-4/95)
                                ($85,624)
Fed. Communications Comm.
                                Presidential Management Intern
(2/95-2/96)
                                ($29,895)
                                Assistant Director for Trade Policy
Department of Interior
(12/92-4/95)
                                ($53,276)
Department of Commerce
                                Attache (Geneva)
(10/94-10/95)
                                ($76,468)
U.S. Information Agency
                                Director for APEC Affairs
                                ($75,000)
(6/93-12/95)
                                Policy Analyst (Environment)
EPA
(2/95-2/96)
                                ($78,832)
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<sup>\*</sup> salaries for some details reflect level at time of assignment.

<sup>\*\*</sup> assigned to Office of Europe/Mediterranean.

<sup>\*\*\*</sup> assigned to Office of GATT/WTO Affairs.

#### Ouestion 3:

How many USTR employees are stationed in Washington, D.C.? How many are detailed to the office in Geneva, Switzerland? Have these staffing levels changed at all since the conclusion of the Uruguay Round? Do you believe they will change?

#### Answer:

USTR's permanent staff is divided between its Washington and Geneva offices. Currently, 150 permanent staff are on-board in Washington and 7 permanent staff are assigned to the Geneva office. Since the conclusion of the Uruguay Round negotiations in December 1993 staff levels have changed as follows: Washington staff level has increased by 4 and the Geneva office has remained level. (These staffing levels exclude student employees which are part of the FTE count.)

Our FY 1996 budget request is for 166 FTEs, a decrease of 2 from the current authorized level. We plan to make the reduction in Washington. For at least the next year, we will keep the Geneva Office at about its current strength. The Office will be busy through FY 1996 in helping to negotiate with countries seeking accession to the WTO and implementing the Round agreement.

#### Question 4:

What is the current average salary at USTR and what is the projected average salary in FY96?

#### Answer:

The average FY 1995 salary is projected at \$70,880. The average FY 1996 salary is estimated at \$72,679. these averages exclude overtime, terminal leave, awards, students and benefit costs.

#### Question 5:

Please provide the positions and salaries for all political appointees/schedule C personnel currently employed by USTR. Please provide the same information for calendar year 1992.

#### Answer:

The information follows.

#### Political Appointees/Schedule C Personnel -- Current

Position	Salary
United States Trade Representative	\$148,400
Chief of Staff	122,040
Senior Counsel and Negotiator	122,040
Senior Policy Advisor	
Senior Counselor to the USTR	85,000
Special Assistant	61,000
Confidential Assistant	74,053

Confidential Assistant	32,926
Confidential Assistant	40,000
Confidential Assistant	25,000
Deputy U.S. Trade Representative (two positions)	123,100
Senior Advisor to the USTR	115,700
Confidential Assistant	53,275
Confidential Assistant	40,000
Confidential Assistant	31,215
Deputy General Counsel	104,230
Special Assistant Attorney	85,000
Confidential Assistant (two positions)	43,356
Counselor to the USTR	115,700
Speechwriter	46,904
Chief Textile Negotiator	107,379
Special Counsel for Finance and Investment	115,700
Assistant USTR for Congressional Affairs	113,180
Deputy Assistant USTR for Congressional Affairs	71,664
Congressional Affairs Specialist (two positions)	36,174
Congressional Affairs Specialist	24,441
Assistant USTR for Public Affairs	111,839
Deputy Assistant USTR for Public Affairs	71,664
Public Affairs Specialist	36,174
Public Affairs Specialist	24,441
Assistant USTR for Intergovernmental Affairs	115,700
Director, Intergovernmental Affairs	44,802
Private Sector Liaison	29,898
Confidential Assistant	29,898
Program Assistant	20,000
LIOSIAM DOSIDUANC	20,000

#### Political Appointees/Schedule C Personnel -- 1992

Position	Salary
United States Trade Representative	\$143,800
Chief of Staff	112,100
Confidential Assistant	61,887
Confidential Assistant (2 positions)	26,798
Deputy U.S. Trade Representative (3 positions)	119,300
Confidential Assistant	38,861
Confidential Assistant	40,156
Confidential Assistant	32,463
General Counsel	112,100
Deputy General Counsel	96,556
Confidential Assistant	40,298
Speechwriter	72,798
Chief Textile Negotiator	112,100
Confidential Secretary	25,071
Assistant USTR for Congressional Affairs	108,300
Deputy Assistant USTR for Congressional Affairs	70,656
Congressional Affairs Specialist	49,290
Assistant USTR for Public Affairs	104,000
Deputy Assistant USTR for Public Affairs	54,607
Director, Private Sector	66,374
Director Intergovernmental Affairs	40 156

#### Ouestion 6:

What portion of USTR's budget for the current fiscal year is being used for Section 301 investigations? Do you expect this allocation to rise, fall or remain the same in FY 1996?

#### Answer:

USTR does not have a "line item" for Section 301 investigations. Section 301 activities are coordinated in USTR's Office of General Counsel. However, we typically manage activities like Section 301 investigations by combining efforts of staff from our support offices (e.g. General Counsel), geographic offices (e.g. Japan/China) and sectoral offices (e.g. Industry).

The total amounts that are spent on Section 301 investigations are a combination of the salaries and expenses of the employees in these offices. How much we spend in a given fiscal year depends on how many investigations are initiated, how complex those investigations are, and how much time and expense they consume. These expenses include not only employees' salary and benefit costs, but also telecommunications, travel, meeting costs, and the printing of documents.

We expect the allocation of resources in FY 1996 to remain about the same as the FY 1995 level. Precisely how much we spend on Section 301 in FY 1996 depends on how many investigations are conducted, how many USTR staff members are needed to complete the investigations, how much travel is required, and how long the investigations take.

#### Ouestion 7:

How many Section 301 investigations have you conducted to date in FY95? Do you anticipate conducting more, less, or about the same amount in FY96?

#### Answer:

Since June of 1994, the United States Trade Representative has initiated seven Section 301 investigations. Of these, six investigations were initiated during Fiscal Year 1995. Our investigation of intellectual property rights in China was started in June of 1994. These other investigations have focused on the European Union's import regime for bananas, Costa Rica's and Columbia's practices regarding banana exports to the EU, Japan's practices regarding after-market auto parts, Korea's barriers to imports of certain agricultural products and Canada's communications practices.

It is difficult to predict the number that will be done a year from now in FY 1996, since that in large measure depends on the trade practices in other countries. You can be sure, however, that throughout FY 1996, USTR will aggressively enforce U.S. trade agreements, using laws like Section 301, and other tools at

our disposal, for enforcement.

Question 8:

USTR's budget request for FY96 estimates that the office's travel expenses will decrease by \$75,000 next year through increased use of frequent flyer programs and enhanced coordination and planning of trips. Specifically, how do you plan to achieve this savings? Do you believe the nature of trade issues in FY96 will make travel less erratic than it has been in the current fiscal year?

Answer:

USTR plans to achieve savings in the travel area through a combination of three actions. First, we project savings by limiting the number of travelers attending negotiation sessions. Second, additional emphasis will be placed on travelers combining trips to the same location: each time this is don, airfare costs will be saved. Third, we will continue to encourage the use of Frequent Flyer coupons. Between FY 1993 and FY 1995, airfare savings realized from the use of coupons will total more than \$160,000: in FY 1996, we expect to increase Frequent Flyer savings above the average achieved during the last three years.

Question 9:

Does USTR plan to hire any consultants or experts under 5 U.S.C. 3109 in FY96? Are there any consultants or experts currently under contract at USTR? If so, what are their functions?

Answer:

USTR makes infrequent use of consultants or experts under 5 U.S.C. 3109. To date this fiscal year, USTR has not entered into any arrangements for expert services. We have budgeted \$10,000 for such services this year and for FY 1996 in case a need arises. Examples of expert services procured in past years include: individuals to translate legal documents into English, and computer database experts in support of NAFTA negotiations.

Minority Questions

#### OFFICE OF THE U.S. TRADE REPRESENTATIVE

#### Authorization Request:

-- Your budget request for fiscal year 1997 is "such sums as may be necessary." The Committee on Ways and Means has never legislated an open-ended authorization for USTR or other trade agencies. Briefing materials provided by USTR before the hearing included a FY 1997 request of \$20,320,000, representing a 3 percent decrease from FY 1996. Recognizing that this figure is a projected estimate at this time, I would hope that USTR would work with us to provide a specific level for FY 1997, if I am correct that the Subcommittee will again legislate a two-year authorization as it has in previous years. Presumably this figure could be revisited next year if circumstances warrant.

#### Answer:

USTR is always pleased to work with the Committee, and will continue to do so on the authorization request.

-- You mention in your testimony that while USTR will reduce its full-time staff level in FY 1996 from 168 to 166 positions, you receive personnel support from other Federal agencies and from students and interns. How many personnel do you expect to be detailed full-time from other agencies to USTR in FY 1996, are they reimbursable or paid for by the other agencies, and is this support an increase or decrease from previous years?

#### Answer:

For FY 1996, we expect to have about 40 personnel details from other agencies, the same number as we have in FY 1995. As is the case in FY 1995, the salaries and benefits for these details would be paid by the lending agency, while USTR would pay for travel, equipment and supplies.

### <u>Questions for the Record</u> Generalized System of Preferences Program February 27, 1995

#### Question 1:

The GSP program was amended in 1984 to make GSP benefits conditional on compliance with certain trade-related and non-trade country practice conditions. Which of the existing eligibility conditions tend to be the most controversial with beneficiary countries?

#### Answer:

The worker rights and intellectual property protection eligibility requirements have been controversial with some GSP beneficiaries.

When the GSP program was enacted in the Trade Act of 1974, it had a number of eligibility requirements regarding, for example, reverse preferences, expropriation, international arbitration and narcotics. In 1984, the GSP program was reauthorized by the Congress, and a number of new eligibility requirements were added to the statute. These include intellectual property rights, worker rights, trade in services and investment practices.

In order for a country or territory to qualify for GSP privileges, USTR conducts a so-called eligibility review to determine whether the country or territory complies with each of the eligibility requirements. In addition, each year USTR conducts a review process in which a beneficiary's continuing compliance with the eligibility requirements can be reviewed.

These reviews normally are conducted in a cooperative manner with the beneficiary concerned. In most cases, the GSP review process encourages the reform of a country's law, the improved enforcement of and compliance with existing law, or a firm commitment to take steps to adhere more fully with applicable international standards and practices. In some cases, the beneficiaries are found to no longer meet the requirements of the law and, as a result, lose some or all of their GSP privileges.

#### Ouestion 2:

Is it the Administration's view that adding new conditions to the program would reduce the leverage USTR has to achieve country practice objectives listed in the existing GSP statute?

#### Answer:

The leverage offered by the GSP program to encourage a greater degree of compliance with international standards and practices regarding the various eligibility requirements has been effective. However, the leverage is limited, and the Administration believes that the addition of new eligibility requirements would undermine the ability to make progress on the existing requirements.

This view is supported by the General Accounting Office (GAO) in its report on the GSP program, "Assessment of the Generalized System of Preferences Program" (November 1994), which states: "GAO noted that adding new provisions would reduce the leverage of existing provisions by diluting them with other requirements, and the cumulative obligations might be a greater burden than beneficiary countries would be willing to bear for the received benefits."

#### Question 3:

We have heard complaints from labor groups that USTR failed to conduct an annual review this year. I assume this decision had to do with the uncertainty surrounding extension of the program. Please explain.

#### Answer:

Each year, USTR conducts an annual GSP review, which usually begins in June and concludes in April of the following year. The 1994 GSP Review, which would have begun in June 1994 and concluded in the spring of 1995, was delayed since the program was due to expire on September 30, 1994. In May 1994, the Administration submitted a proposal to the Congress that would have reformed and renewed the GSP program. The Administration's GSP renewal proposal was approved, with some modifications, by the House Ways and Means Committee and included in the House bill to implement the Uruguay Round Agreements.

The reform proposal was not accepted by the Senate, and it was eventually dropped from the Uruguay Round bill. On September 30, 1994, the GSP program expired. The Uruguay Round bill, which Congress finally approved in December 1994, extended the current GSP program, without modification, until July 31, 1995. When the program was reauthorized, the Administration concluded that it would not be feasible to conduct an annual review process that would have had to been initiated during the holiday season and concluded in only six or seven months, when the program's authorization again expires.

#### Ouestion 4:

Please describe what procedures USTR follows to ensure that GSP status is not granted to imports which would adversely affect the competitiveness of U.S. industries.

#### Answer:

The annual GSP review process offers an opportunity for interested parties to petition to have a product added to the GSP program. Petitions can also be filed to remove a product from the program for all GSP beneficiaries, or just for one GSP beneficiary.

The GSP Subcommittee of the Trade Policy Staff Committee is responsible for conducting the review process. The GSP Subcommittee is chaired by USTR and includes representatives from a number of agencies, including the Departments of Agriculture, Commerce, Interior, Labor, State and Treasury.

During the review process, the GSP Subcommittee solicits public comments repeatedly and holds a public hearing. It also seeks independent economic advice from the International Trade Commission (ITC), the same kind of advice that is rendered by the ITC in connection with bilateral and multilateral trade negotiations. The GSP Subcommittee also seeks and receives analysis from industry experts in the various agencies, including, in particular, the Departments of Agriculture and Commerce, as well as private sector industry experts.

The process of determining whether or not a domestic industry is sensitive to duty-free imports of a product from GSP beneficiaries is very thorough. The Administration has a good record of judging "import sensitivity" under the GSP program. In fact, each year there are only one or two petitions to remove products from the program, and such petitions tend to be granted.

#### Ouestion 5:

Last year Congressman Thomas proposed an amendment to establish a three-year rule to provide that products could only be considered for addition to the GSP program every third year. Would the Administration consider the limiting of worker rights petitions against countries which have recently been the subject of petitions that have been investigated and resolved in favor of the country. I would suggest limiting petitions to remove countries every two years.

#### Answer:

The current GSP regulations provide that, if a petition to add a product to the GSP program is accepted for review and, following that review, the petition is denied, then that product may not be reconsidered for three years (see 15 C.F.R. 2007.0(a)(1)). Congressman Thomas has suggested that the so-called "three-year rule" be provided for in the GSP statute. The Administration supports the codification of the three-year rule for product additions, as suggested by Congressman Thomas. We agree with Congressman Thomas that it is a burden for domestic interests to have to defend their interests each year.

As for so-called "country practice" reviews, the current regulations and practice minimizes the possibility of a GSP beneficiary being subjected to a new review on the same criterion immediately following the favorable conclusion of a GSP review.

Petitions that request a review of a beneficiary's continuing compliance with the eligibility requirements may, in principle, be filed every year (i.e., they are not subject to a "three-year" rule). However, once such a review has been conducted and the country has been found to be in compliance with the eligibility requirement that is being reviewed, then subsequent petitions must include "substantial new information" (15 C.F.R. 2007(b)). This minimizes the possibility that beneficiaries will be subject to repeated unnecessary reviews of the same "country practice" immediately following the favorable termination of a GSP review. At the same time, if a beneficiary's practices deteriorate substantially, or it fails to follow through with its commitments and obligations fully and effectively, then the Administration could consider whether to initiate a new review.

#### Ouestion 6:

Private sector testimony suggested that GSP rules of origin should be modified to allow U.S. content to count toward the 35% minimum value added rule for GSP eligibility. Would the Administration support such a change?

#### Answer:

The Administration does not agree with the proposal to count U.S. content toward the current 35 percent value requirement in the GSP statute. The development incentive provided by the GSP program would be reduced significantly if a beneficiary country does not have to contribute the full 35 percent value.

#### Ouestion 7:

Is it equitable to use GSP benefits as negotiating leverage to achieve market access in sectors that are excluded from being eligible for GSP in the statute?

#### Answer:

Yes. GSP benefits are preferences granted on a unilateral basis. We do not seek preferences - or equity - in return. However, we do believe that our products should have market access in beneficiary countries.

#### Question 8:

Are a large percentage of GSP imports used as components in U.S. manufacturing?

#### Answer:

The GSP program applies to a broad range of agricultural, primary, semi-manufactured and manufactured products. A large share of GSP imports are upstream products and components that are used by U.S. companies to manufacture finished products.

#### Ouestion 9:

What is the percentage of GSP imports that is purchased by small businesses in the United States?

#### Answer:

We do not know the percentage of GSP imports that are purchased by small businesses in the United States. However, the GSP program applies to more than 4,600 products and categories of products that are used throughout U.S. commerce. It is fair to say that many small businesses are undoubtedly involved in importing and distributing products that are eligible for the GSP program, as well as using GSP products to manufacture finished products.

#### Generalized System of Preferences

#### Ouestion:

You state that the Administration supports "longer-term" renewal of the GSP program, as well as the reforms you proposed and the Subcommittee approved last year. For what specific length of time does the Administration believe GSP extension is warranted and useful, particularly in view of the one-third reductions overall in preference margins as a result of the Uruguay Round tariff cuts.

#### Answer:

The Administration supports longer-term renewal because the GSP program has lapsed twice in recent years and been followed by short-term extentions. This has imposed costs on U.S. business, created uncertainty and undermined the various goals of the GSP program. Specifically, short-term renewal limits the ability of the U.S. business community to do any longer-range business planning, especially with respect to sourcing and pricing. It also has undermined the objective of encouraging development in GSP beneficiaries, and it has limited the effectiveness of the program to be used as leverage to encourage a greater degree of compliance with the various eligibility requirements.

Therefore, the Administration believes that long-term extension of the GSP program is warranted, but recognizes that there are fiscal constraints. We want to work with Congress to determine the best and most-feasible approach to reauthorization.

While the Uruguay Round tariff cuts, when fully implemented, will reduce preference margins, many GSP eligible products still will face fairly substantial MFN duty rates.

#### Ouestion:

As you point out in your testimony, GSP is a useful U.S. trade policy tool, particularly to achieve worker rights and intellectual property protection in developing countries. However, because of short-term extensions of the program the past two years, there have not been annual reviews initiated of private sector petitions concerning these and other country practices since 1993. We will also hear testimony later today from the General Accounting Office and a labor rights organization suggesting that reviews of country practices should be conducted on a more flexible and shorter time frame that is more responsive to changing conditions in developing countries. Would you comment on these concerns? Has the Administration ever self-initiated reviews of worker rights or intellectual property practices, or would it do so if there is a further short-term program extension, in order ensure that the statutory criteria are met?

#### Answer:

We have missed only one annual review, the one that normally would have begun in June 1994. The reason for this situation is explained in the answer to a previous question.

It is interesting to note that a previous question suggested that country eligibility reviews be done every two years. This question suggests that we consider more frequent and shorter reviews. More frequent and shorter reviews would be difficult, if not impossible, to administer in a fair and efficient manner. We believe the current annual review period should be retained, although, as in last year's recommendations for administrative changes which we have retained, some relatively minor modifications in the review procedures are planned.

The Administration has not self-initiated formal reviews of worker rights or intellectual property practices but has used GSP to deal with these issues nevertheless. In trying to influence beneficiaries, the duration of GSP is important. Short-term program extension reduces the incentive provided by the program to obtain trade policy reforms. However should it be necessary and whether program extension is short-term or longer-term - the Administration is both willing and able to self-initiate cases in order to ensure that statutory criteria are met. In the past though serious situations have been brought to our attention through the petition process.

#### Question:

The Statement of Administrative Action accompanying the Uruguay Round implementing legislation included an administrative procedure and timetable for review of the "reverse preferences" criteria to ensure that U.S. exports are not significantly harmed by preferential treatment granted by developing countries to developed, such as by Eastern European countries to the European Union in association agreements. Would you describe the status of this effort and the results so far.

#### Answer:

As required in the SAA, we solicited public comment over a 30-day period and requested input from our embassies. We received six submissions, of which three alleged that reverse preferences were having an adverse effect on specific U.S. exports. We then reviewed and analyzed data provided by various U.S. Government agencies.

We have concluded that at present reverse preferences due to association agreements are having an adverse effect on only a small number of U.S. exports to Central and Eastern Europe. In addition, these problems are restricted to two or three countries.

Given the very limited scope of this problem we do not plan to continue the comprehensive reverse preferences review. We do plan, however, to pursue remedies for the concrete problems that do exist and are prepared to withdraw individual GSP benefits if necessary to accomplish this. We also plan to remain vigilant in order to be certain that beneficiaries comply in the future with the "reverse preferences" eligibility requirement of the GSP statute.

Mr. RAMSTAD. Thank you. Thank you, Mr. Chairman.

Chairman Crane. We appreciate your testimony and look for-

ward to working with you.

I would now like to invite Allan Mendelowitz, Managing Director of International Trade, Finance, and Competitiveness with the U.S. GAO.

# STATEMENT OF ALLAN I. MENDELOWITZ, MANAGING DIRECTOR, INTERNATIONAL TRADE, FINANCE, AND COMPETITIVENESS, GENERAL GOVERNMENT DIVISION, U.S. GENERAL ACCOUNTING OFFICE

Mr. MENDELOWITZ. Thank you, Mr. Chairman.

I am pleased to be here today to testify on our recent report evaluating the operation of the Generalized System of Preferences. Before I begin, I would like to recognize my able staff who are with me today. Directly behind me is Curt Turnbow, the Assistant Director responsible for the study of the Generalized System of Preferences. Next to him is Leyla Kazaz, who was Evaluator in Charge, and to my left is Herb Dunn, our Senior Attorney Advisor.

When witnesses from the executive branch come before you, they have to check with the leadership of their agency to make sure that what they are going to say is consistent with what the official policy of the agency is. At GAO, I have to check with my staff to make sure I have the data and analysis right. I am always happy to recognize my staff, because it is their good work that I am represent-

ing.

In 1994 under the Generalized System of Preferences, over \$18 billion of duty-free imports entered the United States. That is about 3 percent of all U.S. imports. This amount reflects the fact that the program has a number of limits on it that restrict the benefits that are provided. The data analyzed relate to 1992, however, we think it is still representative of the program and we determined that only about one-half of the eligible products that could technically receive duty-free status under the program, in fact, entered the United States without duties. The other half weren't eligible because of restrictions related to administrative exclusions and competitive need limits.

While the government officials of beneficiary countries who have received access to the U.S. market duty free under GSP are not able to precisely measure the contribution of GSP to their development, they did tell us that they have realized increased economic development as a result of the program. They tend to validate the view that GSP, which is trade and not aid, is a viable approach to

economic development.

In reviewing the operation of the program, we found that the GSP Program has a generally well-structured administrative process for consideration of petitions to add products to or remove products from GSP coverage. However, we did identify opportunities to improve program administration; for example, making public the guidelines used in analyzing product petitions and in determining matters such as "import sensitivity" and "sufficiently competitive."

Another proposal involves requiring a mandatory core of information that would be required on product petitions before they are ac-

cepted for consideration.

The program's country eligibility requirements, including protection of intellectual property rights and taking steps to observe internationally recognized worker rights, have been contentious. We found that administering these country practice provisions within the annual review process designed for product petitions resulted in certain administrative problems, and we recommended specific ways to improve their administration; for example, having a separate, more flexible timeframe, making public guidelines used when deciding whether to accept such petitions, and expanding the range of sanctions that can be used in response to violation of, for example, intellectual property rights.

Under the current process, a country either loses all of its benefits or has all of its benefits. We suggest that a more flexible approach which would allow us to modulate retaliation or punishment by providing only partial benefits might give the government more flexibility and be more successful in getting compliance with

these types of country practice provisions.

Because GSP benefits are limited and declining, the program provides only modest leverage to encourage governments to change a country's practices. Adding new provisions would reduce the leverage of GSP in achieving the existing objectives. In addition, the Uruguay round tariff reductions are expected to decrease the value of GSP duty-free benefits by an estimated 40 percent, and this will further reduce U.S. leverage to demand compliance with GSP country practice requirements.

If too many conditions are imposed on this program, beneficiary countries may feel the compliance burden is just too great for them

to bear relative to the benefits they receive.

In addition to proposals for improving the administration of the program, we have raised three matters for congressional consider-

ation during GSP Program reauthorization.

First, Congress may wish to consider altering the competitive need limit process that caps allowable imports by, for example, extending the amount of time before exclusions are implemented, to allow for more thorough assessments and provide affected industries more time to adjust.

We believe that a better analysis of competitiveness will lead to better decisions. We looked at a whole set of products that have been eliminated from GSP coverage based on the competitive need limit restriction and found that two-thirds of those items declined in terms of their imports into the United States from the bene-

ficiary countries when they lost their benefits.

Just because a country's exports exceed a competitive need limit doesn't mean that they are truly competitive without the GSP benefit. We believe that the fact that two-thirds of these GSP exports to the United States fell when they lost benefits, is an indication that a more thorough analysis of competitiveness is needed.

Second, the way the competitive need limit is applied proved to be very disruptive to U.S. retailers. They would benefit from more time to make adjustments to the loss of the beneficiary status of

the items in question.

Third, Congress may wish to consider whether to alter the GSP rule of origin so that items are not penalized for having U.S. content. Under the current rule of origin, to be eligible for GSP, a product has to have 35 percent of its value originating in the developing country. If, for example, there is a substantial amount of U.S. content in parts and components of an item that a country wants to ship to the United States, but the value added in the beneficiary country doesn't reach 35 percent, that item will not receive the duty-free benefit.

Fourth, if Congress considers whether or not to incorporate the 3-year rule restricting product reviews and a provision disallowing its waiver is added to the GSP statute, Congress should be aware that the current ability of the trade policy staff committee to self-initiate cases could have the same effect as waiving the 3-year rule, and Congress may wish to consider stipulating whether or not self-initiating cases should be allowed where it would have the effect

of waiving the 3-year rule.

This completes my summary comments.

I will be happy to respond to any questions.

[The prepared statement follows:]

## STATEMENT OF ALLAN I. MENDELOWITZ MANAGING DIRECTOR, INTERNATIONAL TRADE, FINANCE, AND COMPETITIVENESS, GENERAL GOVERNMENT DIVISION U.S. GENERAL ACCOUNTING OFFICE

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here today to testify on our evaluation of the Generalized System of Preferences (GSP) Program and several matters for your consideration during your deliberation on the program's reauthorization. My statement is based on our recent report on the program, International Trade: Assessment of the Generalized System of Preferences Program (GAO/GGD-95-9, Nov. 9, 1944).

#### BACKGROUND

The GSP Program eliminates tariffs on certain imports from 145 eligible developing countries in order to promote development through trade rather than through traditional aid programs. In 1992, \$16.7 billion, or about 3 percent of total U.S. imports, entered duty free under GSP. U.S. duties foregone on these imports were almost \$900 million. However, the cost to the U.S. government was estimated at 75 percent of this amount due to certain tax revenue offsets, according to the Congressional Budget Office. The value of duties foregone is expected to decrease with full implementation of the estimated 40-percent tariff reductions negotiated under the Uruguay Round of the General Agreement on Tariffs and Trade (GATT) for products eligible under GSP. Reauthorization of the program, due to expire on July 31, 1995, provides an opportunity to consider the need for changes.

#### GSP DUTY-FREE BENEFITS DOMINATED BY RELATIVELY FEW BENEFICIARY COUNTRIES

Government officials and business representatives from the six beneficiary countries that we visited--Brazil, the Dominican Republic, Hungary, Malaysia, Thailand, and Turkey--told us that they have realized increased economic development as a result of GSP benefits, even though the level of development attributable to GSP cannot be precisely measured. Further, we found that most GSP benefits have gone to the relatively small number of more advanced or larger developing countries that can produce and export items that meet U.S. market demands.

In 1992, 85 percent of duty-free imports under the GSP Program were from 10 countries. Mexico accounted for 29 percent of GSP duty-free imports, but was graduated from the program when the North American Free Trade Agreement was implemented on January 1, 1994. Other top shippers included Malaysia, Thailand, Brazil, and the Philippines. Most of the GSP-eligible and duty-free goods by value were industrial goods (such as electrical machinery and equipment), rather than agricultural goods.

Other duty preference options exist for some beneficiary countries, such as the Caribbean Basin Economic Recovery Act, that reduce duty-free shipments under the GSP Program. In 1992, \$2.9 billion (8 percent) of all GSP-eligible imports entered the United States under a duty preference provision other than GSP. Together with the \$16.7 billion that entered duty free under GSP, 55 percent of all GSP-eligible goods received duty-free entry.

#### LIMITATIONS ON GSP BENEFITS ARE SIGNIFICANT

Not all products that are eligible to enter the United States under GSP actually enter duty free, due to several program provisions that limit benefits. In 1992, while \$35.7 billion in imports were eligible under the program, \$16.7 billion, or 47

During our study, 1992 data were the most recent available for analysis. In 1993, \$19.5 billion in imports entered GSP duty-free, while \$41.1 billion in imports were eligible. In 1994, after graduation of Mexico from the program, \$18.4 billion entered duty-free, while \$29.2 billion in imports were eligible.

percent, actually received duty-free entry into the United States under GSP. About \$16 billion, or 45 percent, of GSP-eligible imports entered with duties. (Another 8 percent of GSP-eligible imports entered duty free under other tariff preference programs.) "Administrative exclusions" (discussed below) accounted for 56 percent of these imports that entered with duties. "Competitive need limit exclusions" imposed because U.S. imports of a country's product exceeded a limit on U.S. import levels for that product) accounted for about 42 percent, and "product graduations" (exclusions from GSP because the country is competitive in shipping that product to the U.S. market) accounted for 2 percent. The relative importance of administrative exclusions should diminish with Mexico's graduation from GSP, since 67 percent of these administrative exclusions were attributable to Mexico. Also, competitive need limit exclusions have been growing quickly for other beneficiary countries such as Malayeia and Thailand.

Administrative exclusions can result when products fail to meet U.S. requirements that (1) the beneficiary country's export contain at least 35-percent domestic content and (2) the product be shipped directly from the beneficiary country. Some trade experts have criticized the beneficiary country domestic content, or "rule of origin," requirement for GSP for lack of predictability because beneficiary country exporters often have no way of knowing whether their exports will meet the rule of origin requirements until U.S. Customs makes a determination. The U.S. Customs Service was considering, in 1994, changing the rule of origin system to one that would be more predictable and simpler to administer. It would use a "change of tariff classification" system such as that adopted in the North American Free Trade Agreement. This system confers country origin when imported materials, parts, and components are used to make a new product that would fall under a new tariff heading. Although more predictable, such a new rule of origin approach could be more difficult for beneficiary countries to comply with due to the extensive documentation requirements necessary to establish change of tariff classification, according to an International Trade Commission official.

In addition, importers have criticized the current rule of origin, which requires that at least 35 percent of the product must originate or be substantially transformed within the beneficiary country, because it does not allow U.S.-source material to count in any way in meeting the domestic content requirements. Importers have suggested that U.S. components be allowed to apply toward the 35-percent requirement. We agree that GSP items should not be penalized for having U.S. content. Congress may wish to consider whether to alter the GSP rule of origin so that items are not penalized for having U.S. content. For example, any U.S.-origin value of a shipped item could be subtracted from the total value of the item before the 35-percent beneficiary country origin value added is calculated.

Other program limitations involve competitive need limits and product graduations. Competitive need limit exclusions are automatically triggered for a country's product when a legislative ceiling on either the dollar value or share of U.S. imports from a country is exceeded in a calendar year. These exclusions accounted for \$6.7 billion, or 42 percent, of all exclusions in 1992 and grew rapidly for top shippers like Malaysia and Thailand. Competitive need limit exclusions are based on the assumption that a country's export competitiveness has been demonstrated. However, external factors that may have little to do with the competitiveness of a particular beneficiary country's industry can affect U.S. import levels during the 1-year period used to trigger an exclusion. We found that in 37 of the 57 cases examined, a loss of GSP status due to a competitive need limit exclusion was immediately followed by a loss of import market share. In addition, the schedule for implementing these

exclusions allows beneficiary country exporters and U.S. importers only a few months' notice to adjust business plans before losing GSP benefits. In considering whether to reauthorize the GSP Program, Congress may wish to consider altering the competitive need limit process by, for example, extending the amount of time before exclusions under competitive need limits are implemented. This would allow for a more thorough assessment of the competitiveness of the affected imports and allow affected industries more time to adjust.

As for product graduations, in 1992, 2 percent of all exclusions, valued at \$276 million, were due to permanent product graduations from the program. Product graduations are discretionary and are implemented after assessing a beneficiary country's competitiveness for a particular product, usually at the request of U.S. producers.

#### PROCESS TO REVIEW PRODUCT PETITIONS GENERALLY WELL STRUCTURED, BUT SPECIFIC CONCERNS REMAIN

The GSP Program has a generally well-structured administrative process for consideration of petitions to add products to or remove products from GSP coverage. The interagency structure of the GSP Subcommittee (a working group of the Trade Policy Staff Committee) and its consensus decision-making process are designed to ensure that the program's goals are balanced to provide benefits to beneficiary countries while taking care not to unduly harm domestic interests. The annual review process provides for transparency and consideration of all interested parties' views. Rowever, we have identified some specific opportunities to promote better program administration such as (1) by disseminating more information on the decision-making process, including guidelines for analysis, and (2) by strengthening information requirements for acceptance of product petitions.

Among the information that petitioners said they would find useful are definitions of key statutory criteria used in making decisions on whether to add products to or remove products from GSP coverage. The GSP statute does not define key decision-making criteria such as "import sensitivity" or "sufficient competitiveness." This has led some petitioners to complain that the criteria allow subjective decision-making on product additions and removals. However, we believe these criteria would be difficult to quantify for use in every case because they are highly qualitative and judgmental. Most observers we talked with said that an attempt to define these criteria statutorily would result in overly rigid definitions that could hamper achievement of program objectives. The GSP Subcommittee has developed some informal guidelines but has not published them. We recommended that USTR make public the guidelines the GSP Subcommittee uses in analysing product petitions, with the stipulation that the guidelines provide a framework for, but do not limit the extent of, the Subcommittee's analysis.

We found, based on a review of the decision-making process in 45 case studies, interagency decision documents, and interviews with GSF Subcommittee members, that most petitions have not been controversial and have been routinely decided based on their economic merit. However, we also found that the more controversial the case and the higher in the trade policy structure the case was elevated in order to reach consensus, the more other policy factors became determinative. Fifteen percent of the cases we reviewed had been identified by the Subcommittee as controversial and had been elevated for resolution.

<sup>&</sup>lt;sup>2</sup>The GSP Subcommittee is chaired by the Office of the U.S. Trade Representative and consists of members from the Departments of Agriculture, Commerce, the Interior, Labor, State, and the Treasury.

The GSP Subcommittee has not issued public explanations of program decisions, although by regulation it will respond to a written request for information from petitioners. However, foreign and domestic participants told us that many parties were unaware of their right to request and receive such explanations. We recommended that USTR indicate clearly in <a href="Federal Register">Federal Register</a> notices of final decisions on GSP petitions that petitioners can write to request a written explanation of any decision.

The GSP Subcommittee has on occasion accepted for review product-addition petitions that did not provide all required information, if the Subcommittee believed the petition might have had merit and the petitioner had made a good faith effort to obtain the information. Although this practice was allowed by the regulations, it placed domestic producers at a disadvantage in raising objections. Domestic producers complained that acceptance of incomplete petitions effectively shifted the burden of proof on whether to accept a product from the petitioner to those opposing the petition. A new product in the program may be shipped by any beneficiary country, and there may be few sources of information on potential suppliers among beneficiary countries. GSP product-addition petitions were required to provide detailed information, such as (1) actual production figures and capacity utilization and their estimated increase with GSP and (2) exports to the United States in terms of quantity, value, and price, and considerations that affect the competitiveness of these exports relative to exports by other beneficiary countries. We recommended that USTR modify GSP regulations to specify a mandatory core of information required for acceptance of product petitions.

Also related to the process of administering product-addition petitions is the "3-year rule." GSP's 3-year rule, prohibiting rejected product-addition petitions from being refiled until 3 years have passed, protects U.S. industry from repeatedly having to come to the defense of their products in program proceedings. Representatives of affected domestic industries told us that waiver of this rule during the 1991 Special Review for Central and Eastern Europe initiated by the administration undermined the credibility of the program. The representatives said the waiver caused an unfair burden on them by reconsidering the addition of products that had just been denied. USTR has noted that the Trade Policy Staff Committee has the right to waive the 3-year rule since it is the committee's own procedural rule, and the rule did not vest a right in any party. Further, the GSP Director pointed out that the regulations allow the Trade Policy Staff Committee to self-initiate cases "at any time," which can have the same effect. Domestic industries have argued for codifying the 3-year rule with no possibility of a waiver in the GSP statute. However, codifying the 3-year rule alone may not necessarily guarantee strict application of the 3-year rule if the administration still retains the ability by regulation to self-initiate cases. Therefore, if Congress considers whether or not to incorporate the 3-year rule, and a provision disallowing its waiver, in the GSP statute, it should recognize that the Trade Policy Staff Committee's regulatory authority to self-initiate cases can have the same effect. Congress may wish to consider stipulating whether or not self-initiation of cases should be allowed where it would have the effect of waiving the 3-year rule.

A major issue raised by the requesters of our report was whether it is legal to offer different benefits to the various beneficiary countries under a generalized system, which in spirit is like the most-favored-nation principle<sup>3</sup> central to the GATT

The most-favored-nation principle is embodied in article 1 of GATT and provides that countries grant each other treatment as favorable as they give to any country in the application and

system. Program benefits are generally extended equally to all beneficiary countries due to this principle. In some circumstances, however, when a beneficiary country is considered to be sufficiently competitive for a particular product without the GSP benefit, the benefit may be removed. Such permanent product graduations are made at the discretion of the President. We concur with the position taken by USTR that the GSP statute gives the President authority to make such decisions for differential treatment.

#### COUNTRY PRACTICE PETITIONS ENGENDER CONTROVERSY

When the GSP Program was reauthorized in 1984, new "country practice" eligibility criteria were added. These criteria included requirements that beneficiary countries provide adequate and effective protection of intellectual property rights (IPR) and take steps to observe internationally recognized worker rights. IPR refers to legal rights and enforcement associated with patents, copyrights, and trademarks. Petitions to suspend benefits to beneficiary countries that do not meet these criteria for country practices can be filed as part of the annual review process for GSP eligibility.

There is a split in opinion about the desirability of country practice provisions. Beneficiary countries and many trade experts we talked with objected to the presence of country practice provisions in the GSP Program. They said that these conditions contravene the original spirit of GSP, which was to be a trade assistance program that required no reciprocity on the part of the recipient country. Other countries' GSP programs do not have such conditions. While United Nations officials, beneficiary country officials, and many trade experts we talked with acknowledged that IPR and worker rights are important issues, they said they should be addressed in other forums. However, advocates of these provisions maintained that the GSP Program's objective of aiding economic development should not be carried out without parallel development of adequate IPR and worker rights standards. They argued that promotion of these rights is important to sustainable economic growth in developing countries.

Administrative difficulties have resulted from adding consideration of country practice petitions to the existing annual review process designed for product petitions. Country practice cases are fundamentally different from product cases, since they involve adherence to international standards of behavior rather than evaluation of trade flows. The rigidity of the annual review cycle, where all petitions must be filed by the June 1 deadline or wait until the next review, is not well suited to dealing with IPR- or worker rights-related events. These events can precipitate crises at any time during the year. We recommended that USTR review country practice petitions on a separate and more flexible time frame from product petitions that better fits their different dynamics. Further, acceptance of emergency petitions for review out of cycle when events warrant such action, as well as for expedited review, could improve the timely consideration of and, potentially, the more effective responsiveness to these provisions. Therefore, we recommended that USTR accept emergency petitions for expedited review out of cycle, when warranted by events.

In addition, the GSP law and regulations do not specify the program's policies and standards for accepting country practice petitions for review. The GSP Subcommittee has internal policy guidelines, but few of these have been made public. We recommended that USTR make public the guidelines used in deciding

administration of import duties.

whether or not to accept country practice petitions for full

Worker rights advocates have said they disagree with GSP policies (I) classifying certain offenses as human rights issues outside GSP purview and (2) requiring presentation of substantially new information for reconsideration of denied petitions. As currently administered, this "new information" standard has prevented further review of worker rights cases in which a beneficiary country's promised progress in improving worker rights stopped after the GSP review was concluded with a finding favorable to the country. We recommended that USTR clarify the "new information" standard in the GSP regulations to indicate that failure of a beneficiary country to fulfill the promises of progress that were instrumental in the decision to deny a petition would constitute substantial new information that could be the basis for acceptance of a petition.

Finally, the only sanction available in GSP country practice cases is suspension from all GSP benefits. A policy of graduated sanctions, such as suspension of one or more industry sectors rather than the entire country, would provide greater flexibility and could improve the effectiveness of these provisions in encouraging changes in country behavior. We recommended that USTR take all steps necessary to expand the range of sanctions that can be taken when beneficiary countries have not met GSP country practice standards to include partial sanctions when appropriate.

The differing expectations held by GSP officials and IPR and worker rights advocates are at the root of much of the controversy over administration of country practice provisions. GSP officials generally said that these provisions have been used and have leveraged results from beneficiary countries to the extent possible, given other trade and foreign policy concerns. However, IPR and worker rights advocates said they wanted country practice cases more vigorously prosecuted and sanctions more frequently exercised. Worker rights advocates were particularly concerned. While IPR advocates have more powerful trade law remedies they can pursue, worker rights advocates must depend on the GSP provisions to trigger actions under most of the worker rights provisions in U.S. trade law.

Because of its limited benefits, the GSP Program provides only a modest degree of leverage to encourage beneficiary country governments to change their country practices. Proposals to add new country practice provisions during program reauthorization, particularly for environmental protection purposes where there are no international standards, were opposed by most GSP trade experts and program participants we interviewed. Because it was beyond the scope of this review, we did not interview representatives of environmental groups. However, we believe that adding new provisions during program renewal would reduce the leverage of GSP in achieving the objectives of the existing provisions. Furthermore, if too many conditions are imposed, beneficiary countries may feel the compliance burden is too great. They may then be willing to forgo all benefits, thereby eliminating the existing leverage in the program. In addition, the tariff reductions negotiated in GATT are expected to reduce the value of the GSP's tariff preference by an estimated 40 percent and, therefore, the incentive for beneficiary countries to participate in the GSP program.

Mr. Chairman and Members of the Subcommittee, this concludes my prepared statement. I will be pleased to try to answer any questions you may have.

(280123)

Chairman CRANE. Thank you for your testimony.

On your second point dealing with U.S. content, what changes

would you propose?

Mr. MENDELOWITZ. There are several ways of addressing the issue. One way would be to deduct U.S. content from the value of the item and then just require that 30 or 35 percent of the remaining value come from the developing country. An alternative way of attaining the same objective would be to add U.S. content to the beneficiary country's content and stipulate that together they had to reach a certain minimum requirement, such as 35 or 45 percent.

Chairman CRANE. Thank you.

Mr. Houghton.

Mr. HOUGHTON. Thank you, Mr. Chairman.

Mr. Mendelowitz, it was really too bad that the GSP couldn't have been part of GATT, and now there is an extension, this will go on and on. At some point, we are going to have to face up to this and whether we want to continue to extend it or include it in some other ancillary program with GATT or what. If we were to rewrite this law and to make it applicable to the current conditions, what are some of the changes you might make in it?

Mr. MENDELOWITZ. I think that the essence and structure of the program is in a sense a halfway house to bring developing countries into the world trading system, to begin to tie their economies to the major market economies of the world, and to encourage them to build the institutions that they are going to need to be successful functioning market economies, such as protection of intellectual

property rights.

When we looked at the program, we found it reasonably well administered and, therefore, the suggestions we have for improving the program really relate to ways of providing a better understanding of how the interagency committees that make GSP determinations arrive at their decisions so that petitions can be prepared better; and, providing somewhat more reasonable time periods when items are excluded from coverage, so that the change won't be terribly disruptive for the exporting country and will not be terribly disruptive for U.S. retailers.

We have a list of both administrative changes and matters for congressional consideration that would, in fact, achieve this. Based on the comments expressed to us from the developing countries that we visited in the course of this work, the original goal of trying to promote economic development through trade rather than aid and linking these developing countries to the world market

seems to be reasonably successful.

Mr. HOUGHTON. All right. That is helpful.

I have one other question about the 3-year rule for refiling petitions. You may like to comment on that, whether that is a good time or whether it is not, should it be 4 or 5. It imposes quite a burden, particularly if the 3-year rule were enforced on American industry.

Mr. MENDELOWITZ. The 3-year rule is part of the interagency rules for running the program. The rationale behind the 3-year rule was that if petitioners were allowed to constantly refile petitions to put given products under the program, U.S. interests who felt injured or felt they would be injured if this product were given duty-

free status under the program, would have to constantly defend it-

self in one administrative procedure after the other.

The 3-year rule was adopted as a way of providing a reasonable time interval within which events could change and it would be worthwhile to reconsider petitions for the addition of the same products without unduly burdening U.S. industry. One of the things that this program always tried to do was to balance the benefits to developing countries, the benefits to U.S. consumers and minimize the cost and disruption to U.S. industry, and the 3-year rule is a reflection of that effort to try to balance all those interests.

The reason why the 3-year rule became an issue of contention is that back in 1991 there was an administratively triggered special review to try to identify additional items that could be put under GSP for the benefit of the countries of Eastern Europe who had just emerged from domination by the Warsaw Pact. Several very sensitive products that several months before had been rejected for coverage in the program were now on the table again. And, U.S. industry felt they had made their case and they had succeeded, they were supposed to have a 3-year window within which the issue would not be brought up again. And here they were only several months later, having to defend why these particular products shouldn't be included in the program. The 3-year time period is a reasonable time period. However, it is only a judgment call. There is nothing that says it must be 3 years rather than some other reasonable interval. It is just what the program has used. What has created the tension is the fact that the interagency review group that has responsibility for administering the program does have authority under program rules to self-initiate and they have the authority to self-initiate irrespective of what was determined in an annual product review, and they, in effect, can nullify the 3-year rule.

If Congress does feel that the 3-year rule is important and represents a balance between consumer interests, producer interests, developing country interests, and they want to codify that in law rather than regulation, what we wanted to point out was that leaving the review committee that administers the program with authority to self-initiate could in practice nullify that 3-year rule. You may want to place into law, if you think it is important, that self-initiated cases had to abide by the same 3-year interval.

Mr. HOUGHTON. Thank you. Chairman CRANE. Mr. Ramstad. Mr. RAMSTAD. No questions.

Chairman CRANE. We thank you for your testimony and appre-

ciate your appearing here today.

Now, I would like to invite our private sector panel, Mr. Robin Lanier, Mr. Bruce Shulman, Mr. David Weiser and Mr. Benjamin Davis.

Chairman CRANE. My apologies, Ms. Lanier.

Ms. LANIER. I am Robin Lanier, and I am vice president—

Chairman CRANE. Before you start your testimony, I would like to defer to my distinguished colleague from Minnesota, who would like to tender a special welcome to Mr. Weiser, who is a constituent. Mr. RAMSTAD. Thank you, Mr. Chairman.

I want to welcome all the members of this distinguished panel. We appreciate your patience and look forward to your testimony.

I do want to extend a special welcome to my friend and constituent David Weiser who is vice president and general counsel, De-

partment 56. I look forward to your testimony.

Department 56 is a real Minnesota success story. The company is located in the heart of the Third District in Eden Prairie, Minn., and is a leading importer, designer and distributor of specialty ceramic and porcelain products, those Christmas ornaments that the Chairman and his wife like so much that have become collectibles to over 200,000 Americans.

We will hear from Mr. Weiser what the discontinuation of the GSP Program would mean, not only to the 200 employees in our district, but to hundreds, I dare say, thousands of independent

service businesses in this country as well.

So welcome, David. We appreciate your coming to help us on this, and I look forward to the testimony of all the witnesses.

Thank you, Mr. Chairman.

Chairman CRANE. And now ladies first.

STATEMENT OF ROBIN W. LANIER, VICE PRESIDENT, INTERNATIONAL TRADE AND ENVIRONMENT, INTERNATIONAL MASS RETAIL ASSOCIATION, ON BEHALF OF THE COALITION FOR GSP

Ms. LANIER. Thank you, Mr. Chairman.

My name is Robin Lanier, and I am vice president for International Trade and Environment at the International Mass Retail Association.

I am pleased to have this opportunity to appear before you to seek a long-term extension of the GSP Program. I have submitted my written comments, and I hope to summarize my key points.

my written comments, and I hope to summarize my key points.

The Coalition for GSP was founded in December 1992, and is composed of literally hundreds of members representing a wide variety of American producers, importers, retailers, consumers and their workers. The International Mass Retail Association is a trade association representing 170 mass retail companies in the United States.

You have already heard a lot about GSP and all of you know much about the program, so rather than summarizing the program for you yet again, I will point out that I think from the U.S. private sector point of view this program represents a kind of partnership. The program is not merely a foreign aid giveaway but instead relies upon the private sector to help develop stable market economies around the world. It is a tax incentive first and foremost.

I would like to talk a little bit about three ways in which GSP benefits U.S. private sector companies. First of all, it keeps jobs in America. Benefits are provided on many, many inputs to produc-

tion.

I will give a few examples: Automobile parts, raw cane sugar, many chemicals, refrigerator compressors, copper cathodes, leather upholstery, thermostats, furniture parts, zinc, printed circuits and hundreds of other inputs to production are used by U.S. manufacturers to reduce the cost of products here. By substituting duty-free

inputs of production, U.S. companies can keep prices low and keep

production here in the United States.

The program also helps many, many small businesses, principally importers all across the country. You will hear one story today, but let me tell you another story about a fellow named Mike Kapica who runs a little company called Charming Shark Tropical Accessories, Inc. He imports earrings and magnets under the GSP Program.

Two years ago, his company which is located in Sarasota, Fla., was profiled in a Journal of Commerce article. He said at the time that if GSP benefits were eliminated, that the price of his earrings would go up by about 5 cents a pair. That doesn't sound like a lot, but for him that meant \$5,000 of additional cash duty due on every

\$50,000 shipment.

This is a man who has a company founded with \$200 of family savings. He employs about six part-time employees in Sarasota, and for him to find the cash to pay the duty he had to find a loan. He remained in business after the 1993 lapse of the program, I am happy to say, and while he got his duty back, he did not get the interest on the loan that he had to float. Once again, he and thousands of other small businesses across the country are facing a lapse and having to come up with cash to pay their duties.

From my one industry's point of view, the GSP Program has a direct impact on the prices that consumers pay at the checkout. Let me give you a few examples of how prices might go up if GSP were to lapse. Ceramic tile could go up perhaps by 10 percent, Christmas lights by 8 percent, fishing rods by 9.2 percent, ceiling fans by 4.7

percent, baby corn by a whopping 17.5 percent.

GSP needs to be extended for more than just a few months. You have heard today how the few month rollover of this program really limits the ability of businesses to plan for the future. We hope you will extend this program. It is good for America in many different ways.

Thank you.

[The prepared statement follows:]

## STATEMENT OF ROBIN W. LANIER VICE PRESIDENT, INTERNATIONAL TRADE & ENVIRONMENT, INTERNATIONAL MASS RETAIL ASSOCIATION ON BEHALF OF THE COALITION FOR GSP

I am pleased to have this opportunity to appear before on behalf of the Coalition for GSP you in support of a long-term extension of the Generalized System of Preferences (GSP). My name is Robin Lanier and I am Vice President for International Trade and Environment for the International Mass Retail Association, a member of the Coalition for GSP.

The International Mass Retail Association, represents more than 700 members—170 mass retailers that include discount department stores, home centers, catalogue showrooms, dollar stores, variety stores, warehouse clubs, deep discount drugstores, specialty discounters and off-price stores, as well as 570 other businesses that supply consumer products for sale in our member stores. Collectively, IMRA retail members operate more than 54,000 stores in the U.S. and abroad and employ over a million people. The retail members represent the overwhelming majority of the \$245 billion mass retail industry.

The Coalition for GSP was formed in December 1992, and is composed of many companies representing a wide variety of American producers, importers, retailers and their workers. They include sectors of the economy that benefit most from GSP: electronics, wood products, sporting goods, food processors, and other consumer product companies.

#### OVERVIEW OF THE GSP PROGRAM

The Generalized System of Preferences is a recognized part of the legal framework of the General Agreement on Tariffs and Trade (GATT) 1994. It allows industrialized nations to provide preferential tariff treatment for the exports of lesser developed nations. The program is designed to promote economic growth and industrialization through international trade.

The United States first implemented a GSP program in 1976. The program lasted for 10 years and was renewed for 8 and a half years in 1985. In 1993, Congress extended the program for 18 months, to September 30, 1994. In 1994, the program was extended, once again for a short period of months. The current GSP program expires on July 31, 1995.

The U.S. GSP program provides duty-free treatment for more than 4,000 products imported from more than 140 eligible countries. The largest beneficiary countries are Malaysia, Thailand, Brazil and the Philippines. In 1994, U.S. duty-free imports under GSP were valued at \$18 billion, 3 percent of total U.S. imports.

The major product categories that benefit from U.S. GSP duty free treatment are consumer electronics, electrical machinery, manufactured products, food products, non-electrical machinery, metal products, and telephones.

The program protects domestic industry in several ways. First, by statute, import-sensitive products such as clothing and footwear are not granted GSP benefits. In addition, the program also includes provisions designed to limit GSP benefits to those lesser developed nations that truly need a helping hand. Products that are imported in large quantities can been "graduated" from the program, and entire countries can be "graduated" when they reach a per-capita income threshold. Finally, the program gives the President wide latitude to summarily graduate competitive countries from the program.

Finally, and perhaps most important of all, the United States has successfully used GSP benefits as negotiating leverage to induce beneficiary countries to make improvements to intellectual property rights and worker rights protections, and to provide enhanced market access for U.S. exports.

The Coalition for GSP supports a long-term, five-year renewal of the current GSP program without any major changes to its structure. This long-term extension is needed to help the American businesses that rely on GSP plan for the future. The onagain, off-again, short-term extensions of this program serve no one's purposess-not the businesses who rely on GSP, nor the government that uses GSP as leverage to gain improvements in foreign market access, and protection of workers and intellectual property. We are wary of making changes to the current program because we fear that changes will delay renewal of the program beyond July 31, 1995.

#### BENEFITS OF THE PROGRAM

GSP is one of those modest programs that actually accomplishes what it set out to accomplish. GSP has proved to be a rational tax incentive policy that has spurred foreign investment and economic development in lesser developed countries. It does so, not by giving away money, but by providing trading opportunities here in the United States. Because GSP benefits are tied to beneficiary countries' progress on worker rights and protection of intellectual property rights, GSP has also proved to be one of the most useful and flexible negotiating tools in the U.S. arsenal on those key international trade issues. Most important, GSP gets the private sector involved in helping less developed countries move toward stable market economies. It does so while helping American companies remain competitive, creating American jobs, and giving consumers a price break at the check out.

J would like to focus the coalition's comments on how this program benefits American businesses and consumers.

#### KEEPING JOBS IN AMERICA

GSP duty free imports help American producers keep manufacturing jobs in America. U.S. companies keep their production costs down by importing raw materials under the GSP program. Automobile parts, raw cane sugar, many chemicals, refrigerator compressors, copper cathodes, leather upholstery, thermostats, furniture parts, unwrought zinc, printed circuits and hundreds of other inputs to production are currently granted GSP duty-free benefits. By lowering the cost of these raw materials, U.S. manufacturers can afford to use more expensive U.S. labor for production, and remain competitive. Losing GSP benefits could well tip the scales for some of these manufacturers, forcing them to move their production entirely offshore.

#### HELPING SMALL BUSINESSES

GSP directly helps small, and family-owned importing businesses. These business also create and support American jobs--jobs that could be jeopardized by the loss of GSP benefits this coming July. To give you an idea of the impact of this program on smaller business, I'd like to tell you about one of the members of the Coalition for GSP. Mike Kapica runs a little Sarasota Florida company--Charming Shark Tropical Accessories Inc.--that imports earrings and magnets under the GSP program. Two years ago, Mr. Kapica's company was profiled in the Journal of Commerce, right after the GSP program had lapsed. At that time, Mr. Kapica estimated that the wholesale price for his imported earrings would increase by about five cents a pair without the GSP tariff break. That doesn't sound like much, but for Mr. Kapica, who founded his little company with \$200 of his own money and employs a half-dozen part-time employees, it amounted to an additional \$5,000 on every \$50,000 shipment--money he did not have on hand, and had to borrow at an additional interest cost. Mr. Kapica weathered the storm back in 1993, but now two

years later, he faces the same expensive disruption to his small business. GSP helps him to stay in business and to provide jobs in Florida.

#### KEEPING PRICES LOW

Finally, GSP helps American consumers make ends meet. Obviously for the many retail companies that I represent, GSP has a direct impact on our prices. Whether the GSP benefit applies to an input of production, or a finished consumer product, GSP duty-free treatment inures directly to any American who shops at any one of IMRA's 170 member companies.

If Congress fails to act, on July 31, 1995, duties as high as 17.5 percent could be imposed on some imported consumer goods and parts. At retail, those additional border taxes translate into significant retail price increases for average Americans. For example, ceramic tiles from Turkey are one of many GSP products that home centers all across the country sell at reasonable consumer prices. The MFN duty rate for these products is 10 percent. If GSP lapses, the cost to consumers of these products could jump by 10 percent. Some retailers can, and will, absorb some of these price increases, but with average after-tax profits of only 2 percent of sales--and even less than this in the mass retail sector--retail industry margins are simply not sufficient to absorb all of the price increases that could be expected if GSP ends on July 31. Some retail formats, like dollar stores or variety stores that sell merchandise at a fixed price of a \$1.00 or less, will have no flexibility to pass on price increases. All it takes is a very small increase in the wholesale price of a product before a retailer of this type decides to drop a product from its merchandise mix.

The potential price increases are significant. The duty on Christmas tree lights is 8 percent. The duty on fishing rods is 9.2 percent. The duty on ceiling fans is 4.7 percent. The duty on baby corn is 17.5 percent. All of these products, and hundreds of other, non-import-sensitive products are now being imported at zero duty from a many of less developed nations.

#### GSP IS NOT A WASTEFUL SPENDING PROGRAM

I'd like to leave you with this one final thought. GSP is not a wasteful spending program, nor a give-away to foreign governments. It is, instead, a well-thought-out, modest tax break designed to effect good policy goals. Unlike many other tax incentives, however, GSP works. It stabilizes market economies, advances worker rights, protects intellectual property, opens new markets for U.S. exports, helps U.S. firms stay competitive, creates American jobs, and keeps prices low. All Congress has to do to avoid imposing a new, unneeded tax on business and consumers is to extend this program for at least another five years.

Chairman CRANE. Thank you. Mr. Shulman.

### STATEMENT OF BRUCE N. SHULMAN, ON BEHALF OF THE AMERICAN ASSOCIATION OF EXPORTERS & IMPORTERS

Mr. SHULMAN. Mr. Chairman, members of the committee, my name is Bruce Shulman. I am currently the senior attorney in the Washington office of Stein Shostak Shostak & O'Hara. Prior to becoming a member of the private sector, I was employed from 1975 to 1987 as a senior attorney in the Office of Regulations and Rul-

ings at the Customs Service.

I greatly appreciate the opportunity to testify today on behalf of the American Association of Exporters & Importers. AAEI is a national organization of approximately 1,200 U.S. firms active in importing and exporting a broad range of products, including chemicals, machinery, electronics, footwear, foodstuffs, and textiles and apparel. The association's members also include customhouse brokers, freight forwarders, banks, attorneys and insurance carriers.

AAEI appreciates the opportunity to address the fiscal year 1996 budget proposals for the Customs Service and the need to renew

the GSP Program which is due to expire on July 31, 1995.

AAEI has always supported the Customs Service being provided with enough appropriations to perform its important functions of raising revenue, enforcing our trade laws and facilitating commerce. As the committee is aware, Customs is currently undergoing a major reorganization, as well as being required to administer at least three new major programs—the Customs Modernization Act, the North American Free Trade Agreement and the changes resulting from the Uruguay round of multilateral trade negotiations.

Customs has already cut or frozen numerous positions in attempting to be responsive to the budgetary problems which face the government. Under these circumstances, further cuts in the Customs budget beyond those which have already been made would be extremely harmful to the agency. Accordingly, AAEI recommends that further cuts in Customs' proposed budget be deferred at least until the agency has had an opportunity to reorganize and to ascertain what resources it will be needing to administer all of the new programs for which it has now been made responsible.

For nearly 20 years, GSP has given developing countries access to the world marketplace by allowing exportations to industrialized countries at preferential rates of duty. Its philosophy of promoting trade is clearly a more effective, cost-efficient means of promoting

sustained economic growth than direct foreign aid.

As a result, over 20 other industrialized countries have adopted the GSP concept and continue to import goods at preferential rates of duty from developing countries. The United States must continue this program to remain competitive in international trade

and to foster development in the Third World.

For the above reasons, AAEI has consistently supported a strong GSP Program and continues to do so. The imminent expiration of the U.S. GSP Program on July 31, 1995 is of great concern to AAEI and its members. It is difficult to plan an import strategy with the knowledge that a program on which importers rely is going to expire within the next 5 months. Accordingly, AAEI urges Congress

to renew the U.S. Generalized System of Preferences for a mini-

mum of 10 years.

GSP should be renewed for three main reasons: First, GSP is important to beneficiary developing countries and to U.S. producers and consumers. Duty-free sourcing of materials and components is important to U.S. industries which use them in the production of finished products.

If U.S. manufacturers can only obtain these materials and components at prices which include the payment of duty, increases in the price of finished products will inevitably be passed to U.S. con-

sumers.

For example, a substantial volume of electrical products, such as outlets and switches, are imported from BDC countries under GSP to be used in the housing industry. Likewise, a large volume of components is imported from BDC countries which are used in U.S.-made automobiles. If such products are not available at prices which do not include duty, whatever increased costs are involved will be paid by purchasers of new homes and automobiles.

Additionally, some people have the perception that the GSP Program is not important now that Mexico and Israel are no longer beneficiary developing countries. Nothing could be further from the truth. Countries like the Philippines, Malaysia, Indonesia and Thailand are heavily dependent on the GSP Program, and numerous U.S. importers depend on sourcing duty-free products from

such countries in order to remain competitive.

And most importantly, in the future, GSP can and should play an important role in assisting the economies of, and strengthening democracy in countries such as Russia, where trade and not aid should be the first order of business.

Second, continuation of the GSP Program will result in the protection or improvement of intellectual property rights in beneficiary

developing countries and other important objectives.

In the past, the existence of the GSP Program has resulted in beneficiary developing countries either protecting or improving intellectual property rights and living up to other international obligations. It is obvious that if the GSP Program is not renewed, countries which have previously protected or improved these rights

will have no future incentive for doing so.

Third, the Generalized System of Preferences is one of the most cost-effective and efficient foreign aid or trade programs administered by the United States. It is estimated that the renewal of the GSP Program will cost the United States approximately \$500 million per year. This cost is relatively minor when compared with the cost of other trade and foreign aid programs, such as NAFTA, the Uruguay round, et cetera.

Moreover, the GSP Program has a proven track record of helping beneficiary developing countries improve their economies, after which they have been graduated. Congress need only look to such countries as South Korea, Hong Kong, Singapore and Taiwan as

examples.

In addition to supporting an extension of GSP, AAEI has included several suggestions in its written submission for improvements which should be made in the GSP Program. We trust that

the committee will give full consideration to these written suggestions.

In summary, AAEI strongly supports renewal of the GSP Program for at least 10 years. The GSP Program has historically encouraged trade with underdeveloped nations and has led to substantial economic gains for both these countries and the United States.

Again, thank you for the opportunity to testify concerning a matter which is of the utmost importance to the importing community. I am ready to answer any questions which the committee may

have.
[The prepared statement follows:]

#### STATEMENT OF BRUCE N. SHULMAN ON BEHALF OF THE AMERICAN ASSOCIATION OF EXPORTERS & IMPORTERS (AAEI)

#### Introduction

AAEI is a national organization of approximately 1,200 U.S. firms active in importing and exporting a broad range of products, including chemicals, machinery, electronics, footwear, foodstuffs, and textiles and apparel. The Association's members also include customhouse brokers, freight forwarders, banks, attorneys and insurance carriers.

AAEI appreciates the opportunity to address the need to renew the GSP program which is due to expire on July 31, 1995. For nearly twenty years, GSP has given developing countries access to the world marketplace by allowing exportations to industrialized countries at preferential rates of duty. Its philosophy of promoting trade is clearly a more effective, cost-efficient means of fostering sustained economic growth than direct foreign aid. For this reason, AAEI has consistently supported a strong GSP program and continues to do so. The imminent expiration of the U.S. GSP program is of great concern to AAEI and its members. It is difficult to plan an import strategy with the knowledge that a program on which importers rely is going to expire on July 31 of this year.

#### AAEI Supports Renewal of the Generalized System of Preferences

 GSP is Important to Beneficiary Developing Countries and to U.S. Producers and Consumers.

AAEI urges Congress to renew the U.S. Generalized System of Preferences for a minimum of ten years. The GSP program is currently due to expire on July 31, 1995. For nearly twenty years, GSP has given developing countries access to the world marketplace by allowing them to export products to the many industrialized countries which have adopted such a program. Over twenty other industrialized countries have adopted the GSP concept and continue to import goods at preferential rates of duty from developing countries. The United States must continue this program to remain competitive in international trade and to foster development in the Third World.

Additionally, duty-free sourcing of materials and components is important to U.S. industries which use them in the production of finished products. If U.S. manufacturers can only obtain these materials and components at prices which include the payment of duty, increases in the price of finished products will inevitably be passed to U.S. consumers. For example, a substantial volume of electrical products, such as outlets and switches, are imported from Beneficiary Developing Countries under GSP to be used in the housing industry. If such products are not available at prices which do not include duty, whatever increased costs are involved will be paid by purchasers of new homes.

Finally, some people have the perception that the GSP program is not important now that Mexico and Israel are no longer Beneficiary Developing Countries. Nothing could be further from the truth. Countries like the Philippines, Malaysia, Indonesia and Thailand are heavily dependent on the GSP program, and numerous U.S. importers depend on sourcing duty-free products from such countries in order to remain competitive. Moreover, in the future, GSP can and should play an important role in assisting the economies of and fostering democracy in countries such as Russia, where trade and not aid should be the first order of business.

 Continuation of the GSP Program will Result in the Protection or Improvement of Intellectual Property Rights in Beneficiary Developing Countries and Other Important Objectives. In the past, the existence of the GSP program has resulted in Beneficiary Developing Countries either protecting or improving intellectual property rights and living up to other international obligations. It is obvious that if the GSP program is not renewed, countries which have previously protected or improved these rights will have no further incentive for doing so.

 The Generalized System of Preferences is One of the Most Cost-Effective and Efficient Foreign Aid or Trade Programs Administered by the United States.

It is estimated that the renewal of the GSP program will cost the U.S. approximately \$500 million per year. This cost is relatively minor when compared with the cost of the other trade and foreign aid programs, such as NAFTA, the Uruquay Round, etc. Moreover, the GSP has a proven track record of helping Beneficiary Developing Countries improve their economies, after which they have been graduated. Congress need only look to such countries as South Korea, Hong Kong, Singapore and Taiwan as examples.

#### AAEI Supports Improvements in the GSP Program

AAEI supports the current Presidential authority to waive statutory limits on a particular GSP import commodity from any beneficiary country when the President receives advice from the International Trade Commission [ITC] that no United States industry is likely to be adversely affected by such a waiver, and he determines that such a waiver is in the national economic interest of the United States. [19 U.S.C. 2464(c)(3)(A)). This general waiver authority has allowed the Administration to conduct the review process in an intelligent manner, without subjecting the flow of trade to otherwise potentially disruptive automatic mechanisms which would deny duty-free benefits to products needed for U.S. domestic production.

The Annual Review process has also enabled the U.S. to use the waiver for gaining leverage in negotiations to assure market and commodity access and to enforce intellectual property rights. [19 U.S.C. 2464(c)(3)(8)].

AAEI also proposes a redefinition of the rules of origin under the GSP program. The existing rules of origin require, inter alia, that eligible articles be imported directly from beneficiary countries to the United States and that the sum of the cost or value of the materials produced in beneficiary countries plus the direct costs of processing operations performed therein must equal at least the thirty-five percent of the appraised value of eligible articles upon their entry into the United States. [19 U.S.C. 2464(b)(1)].

AAEI proposes allowing U.S. component input to count toward the 35% minimum value rule for GSP. While rewarding U.S. value content input would not adhere to the express purpose of GSP, allowing such input to count toward the 35% would be a boon to U.S. domestic manufacturers, importers and consumers. It should be noted that other countries, including Canada and Japan, make a similar allowance in their GSP programs. The inclusion of U.S. value content input would also be consistent with other trade programs which allow a donor country content rule, such as the Caribbean Basin Initiative Act. [19 U.S.C. 2702].

Strengthening of American competitiveness abroad necessitates GSP renewal since more than twenty other industrialized countries grant duty-free benefits to developing countries. Because a considerable amount of duty-free goods are being used as components in U.S. manufacturing, loss of GSP would be a severe blow to these sectors of the U.S. economy, as well as the economies of developing nations.

Adoption of the above changes would enhance realization of the purpose of the GSP program, benefitting not only developing countries, but also U.S. economic interests.

In summary, AAEI strongly supports renewal of the GSP program for at least ten years. The GSP program has historically encouraged trade with underdeveloped nations and has led to substantial economic gains for both these countries and the United States.

Chairman CRANE, Mr. Weiser,

# STATEMENT OF DAVID H. WEISER, VICE PRESIDENT, GENERAL COUNSEL AND SECRETARY, DEPARTMENT 56, INC.

Mr. WEISER. Thank you, Mr. Chairman.

I am here to provide the comments of Department 56, Inc., in

support of a possible extension of the GSP Program.

As Congressman Ramstad noted, Department 56 is a leading designer, importer and wholesale distributor of better quality, reasonably priced Christmas ornaments, collectibles and best known products. We are best known for our village products—handcrafted miniature ceramic and porcelain houses, buildings and coordinating accessories. Just two of our products that are imported from the Philippines are placed on the table next to me.

Since their introduction nearly 20 years ago, our products have developed broad consumer appeal due to their fine detail, high quality and reasonable price. Thanks to these features, many of our products have achieved collectible status, and it is estimated, as the Congressman noted, that roughly 200,000 avid collectors exist.

Beyond the avid collectors, our consumers represent a broad demographic spectrum. The interactive nature of our products attract both male and female consumers, with 50 percent under 45 years of age and having household incomes of between \$35,000 and \$75,000.

A key to our competitive ability to deliver these products with their high level of detail and quality at affordable prices lies within

our proven vendor relationships.

We do not actually manufacture the products we sell. Instead, we have organized a network of Pacific rim suppliers who produce to our design specifications. Many of these relationships with producers in GSP beneficiary countries date back over 5 years, and we

have often purchased a supplier's entire annual output.

Our large buying volumes and our long presence in the Far East have built a level of expertise that allows us to design increasingly intricate and detailed pieces. When you consider that one piece can require 30 separate attachments, hundreds of modeling cuts and several handbrushed finishes, or the crafting and assembly of various art media into a single product, it becomes clear that the designers and factory must have coordination, knowledge and skill to produce consistent, high-quality pieces.

Over the past 5 years, we have developed vendors in India, Thailand and the Philippines which are principally led by indigenous artisans. These persons have raised and committed their private capital to the construction of factories and to the training of both

supervisory and artisan personnel.

Department 56's import history with the Philippines provides some illustration of the longer term effects of GSP. Our Philippine procurement began in the late eighties at relatively insignificant levels and now represents 11 percent of our import purchases. Department 56 imports from the Philippines doubled in absolute dollars in the past 2 years alone.

Since the early nineties, we have observed employment in our Philippine vendor facilities increased from approximately 750 workers to nearly 3,000 individuals. Imports from Thailand and India are currently insignificant in relative terms for Department 56, but our 1995 Thai imports should be at least 20 times greater in dollars than 1992 levels and India imports are expected to be nearly 200 times greater than 1992 amounts. These dramatic increases are due to the development of these industries rather than a movement of jobs from the United States.

Revocation or expiration of the GSP Program would be felt soon by us for two principal reasons. First, this craft production is specialized and it takes a long lead time to establish a productive facility. For our Philippine mixed-media merchandise, such as the piece to my left, there are no available alternative sources at present.

Second, modern inventory management is a version of just-intime purchasing, so there is little warehoused surplus available to meet customer orders. We would be faced with passing a duty surcharge into our wholesale prices, and this would impact our employees and sales force, our 19,000 trade customers in the United States, our cargo haulers and import brokers, our royalty artists, our public investors and all their various constituencies.

I would like to note that better quality resin ceramic and porcelain products, particularly those of mixed media, are not produced in commercial quantities in the United States. We therefore believe that there are no substantial private U.S. interests that would directly benefit or be protected by discontinuing the GSP Program. Rather, the interests that would be benefited and protected would be those of countries such as China and Vietnam who in recent years have largely abandoned their central economic

planning and vigorously adopted free market practices.

With that change, they are able to compete with their immense

resources and, to some extent, it is the historically developing states, such as the Philippines, and long-term gains that GSP has achieved in those countries that are affected. While we do not reject the recent advances of China, indeed a substantial portion of our goods are made there, we understand and adopt the management principles of vendor diversification and encourage our production sourcing to avoid dependency on any one particular economic, political, geographic, or cultural setting. In this context, GSP can stabilize the trading environment and help business diversify its import portfolio.

In addition, relocation of production facilities out of current GSP beneficiary countries would, of course, shrink foreign local investment in these countries and would reduce the opportunities for

those countries to diversify their export base.

In closing, I would like to note that while Department 56 is not involved in heavy industries such as automotive manufacturing or power plant construction, as persons experienced in international trade we can well imagine that being able to extend GSP treatment to countries where U.S. businesses are bidding on major capital works is a useful tool to our Nation's commercial diplomacy and ultimately the balance of trade.

Thank you for allowing Department 56 to provide its remarks on the possible extension of the Generalized System of Preferences, and I would now be pleased to answer any questions from members

of the committee.

[The prepared statement follows:]

# COMMENTS OF DEPARTMENT 56, INC. TO THE SUBCOMMITTEE ON TRADE ON THE EXTENSION OF THE GSP PROGRAM

This statement is submitted on behalf of Department 56, Inc., One Village Place, 6436 City West Parkway, Eden Prairie, MN 55344, concerning the possible extension of the Generalized System of Preferences ("GSP") program which promotes economic development and creates markets for U.S. exports in developing countries through tariff preferences. Department 56 urges the Subcommittee on Trade to fully support the extension of the GSP program.

Department 56 is a leading designer, importer and wholesale distributor of better quality, reasonably priced Christmas ornaments, collectibles, and specialty giftware products. The company is best known for their village products, handcrafted miniature ceramic and porcelain houses, buildings, and coordinating accessories. Since their introduction 19 years ago, these village products have developed broad consumer appeal due to their fine detail, high quality, and reasonable price. Because of these features, Department 56 village products have achieved collectible status, with approximately 200,000 avid collectors and, additionally, a broad demographic spectrum of consumers.

A key to Department 56's competitive ability to deliver these products with their high level of detail and quality at affordable prices lies within their long-standing vendor relationships. Department 56 has an organized network of Pacific-rim suppliers who produce to their design specifications. A significant number of these production facilities are located in India, Thailand, and the Philippines, all GSP beneficiary countries.

Many of the relationships with producers in GSP beneficiary countries date back over 5 years and Department 56 often purchases a supplier's entire annual output. Department 56's large buying volumes and long presence in the Far East have built a level of expertise that allows them to design increasingly intricate and detailed pieces. This expertise is critical because each piece may often require 30 separate attachments, hundreds of modelling cuts, and several hand-brushed finishes, or the crafting and assembly of various art media into a single product.

The vendors in India, Thailand, and the Philippines are principally led by indigenous artisans and their private capital has been committed to the construction of factories in these countries and to the training of both supervisory and artisan personnel.

Department 56's import history with the Philippines provides some illustration of the longer-term effects of GSP. Our Philippine procurement began in the late 1980's at relatively insignificant levels and now represents 11 percent of our import purchases. Department 56 imports from the Philippines doubled in absolute dollars in the past 2 years alone. Since the early 1990's, we have observed employment in our Philippine vendor facilities increase from approximately 750 workers to nearly 3,000 individuals. Imports from Thailand and India are currently insignificant in relative terms for Department 56, but our 1995 Thai imports should be at least 20 times greater in dollars than 1992 levels and India imports are expected to be nearly 200 times greater than 1992 amounts. These dramatic increases are due to the development of these industries rather than a movement of jobs from the United States.

Because of the specialized nature of this production and the long lead time necessary to develop an appropriate supplier, there is no other source available at present for these products. Relocation of these production facilities would shrink foreign investment in these three GSP beneficiary countries and would reduce the opportunities for these three countries to diversify their export base.

Here in the United States, Department 56 will also be injured if the GSP program is allowed to lapse. Department 56 employs approximately 190 workers in the United States and 200 worldwide. Additionally, independent sales organizations which sell our products to the retail trade employ another 100 Americans. These U.S. jobs will be directly affected by the expiration of the GSP program. Other workers immediately affected by the expiration of the GSP program will also include cargo haulers, import brokers, royalty artists, public investors, and all their various constituencies.

Current U.S. production of these collectable and giftware items is negligible. Accordingly, any disruption in the flow of these items from GSP beneficiaries will not benefit U.S. manufacturers. The removal of GSP preferential benefits will be counterproductive and detrimental to U.S. consumers.

Granted, there are some immediate budgetary reservations about extending the GSP program. However, the long-term benefits of the GSP program more than compensate for any immediate budgetary outlays. The GSP system is designed to extend benefits to sectors of developing countries which were not competitive internationally. According temporary preferential treatment to these developing nations would enable them to develop their infant industries in order to compete with developed countries on an international scale. Long term benefits of GSP treatment include increased exports and foreign exchange earnings, a diversified economy, and reduced dependence on foreign aid.

Correspondingly, U.S. companies and workers benefit from the GSP program because they are able to produce consumer goods in greater quantity and at cheaper prices by sourcing their product in GSP beneficiary countries where they can benefit substantially from preferential tariff rates. Lower tariff rates are passed on to U.S. consumers in the form of lower prices which translate into increased sales. Accordingly, more sales and administrative staff are hired to handle increased demand. Independent service operators, such as shipping companies, cargo haulers, and import brokers, also directly benefit from the increase in demand for these products.

Termination of the GSP program would impede the further growth and development of artisan industries, such as ours, in India, Thailand, and the Philippines, and in other developing industries benefitting from the GSP program. Manufacturers in these countries would be unable to expand their capacity and production, and unemployment would increase. Such an outcome would undermine the benefits which the GSP program has provided to date.

We urge the Congress to put aside short-term budgetary concerns and permanently extend the GSP program. GSP is a long-term investment that has done much to foster trade and development in the past and should continue to do so into the future.

Chairman CRANE. Thank you. Mr. Davis.

# STATEMENT OF BENJAMIN N. DAVIS, ON BEHALF OF THE INTERNATIONAL LABOR RIGHTS EDUCATION AND RESEARCH FUND

Mr. DAVIS. Thank you, Mr. Chairman.

We appreciate the opportunity to testify before you on behalf of the International Labor Rights Education and Research Fund. The fund has filed numerous country practice petitions with USTR over the past decade and my comments will principally address some of the administrative issues raised in the GSP report.

We support the extension of GSP. We believe that it is a crucial element of our Nation's commitment to equitable and sustainable development. We believe that the worker rights provisions of GSP are also crucial to maintain that development as equitable and sus-

tainable.

We generally endorse the observations, the suggestions made by GAO in its report concerning the worker rights aspects of the country practice petitions, and I will just highlight some areas of agreement and a couple of areas where we disagree with the administra-

tion proposals made last year.

Specifically, first, the GAO recommends that review of country practice petitions be placed on a more flexible time schedule. We endorse that suggestion. However, we do not agree with the administration's proposed two-phase system. We think that would make review more cumbersome and that it would not be consistent with the flexibility that the GAO recommends in their report.

We support the recommendation that guidelines that are used in deciding whether or not to accept country practice petitions be

made public.

We think that USTR ought to be required to accept any petition that is not frivolous, and I think the experience that we have had bears out that in general petitions that are submitted by worker rights adventes are not found to be frivoleus petitions.

rights advocates are not found to be frivolous petitions.

We strongly support the recommendation that the new information standard be clarified to prevent a situation where a country can avoid continuing review simply by indicating—by giving lip service to the idea of compliance with the worker rights provisions of the statute and not actually making substantive compliance.

We also strongly endorse the recommendation that the range of potential sanctions be expanded to give additional flexibility. It is true that it often becomes problematic when you have a country that is a significant GSP beneficiary and you are faced with a situation of the only alternative being cutting off all benefits or not continuing the review. We think that there is room for more creativity with the sanctions in that area

ativity with the sanctions in that area.

We also believe, in addition to the recommendations made by GAO, that two other recommendations we would make would be to eliminate the taking steps language that is, in fact, inconsistent generally with the recommendations of the GAO report for flexibility in terms of both the kind of sanctions available and the timeframe in which they are to be applied. And we also would hope that

the issue of petitioner standing to seek judicial review would be clarified in any extension legislation.

In summary, the fund believes that the GSP can be both a vehicle for promoting global development through trade rather than aid and a means of stimulating democratic political participation in developing countries by guaranteeing respect for internationally recognized worker rights.

Thank you.

[The prepared statement follows:]

STATEMENT OF BENJAMIN DAVIS,
INTERNATIONAL LABOR RIGHTS EDUCATION AND RESEARCH FUND,
BEFORE THE SUBCOMMITTEE ON TRADE,
COMMITTEE ON WAYS AND MEANS,
UNITED STATES HOUSE OF REPRESENTATIVES,
FEBRUARY 27, 1995.

The International Labor Rights Education & Research Fund appreciates the opportunity to appear before the subcommittee today in support of extension of the Generalized System of Preferences program.

The Fund is a non-profit organization dedicated to assuring that all workers labor under reasonable conditions and are free to exercise their rights to associate, organize and bargain collectively. Since 1987, the Fund has filed more than 20 country practice petitions under the GSP statute.

GSP is an important component of the United States' commitment to equitable and sustainable global development. While the Uruguay Round Agreements will reduce tariff barriers over the next decade, the least-developed economies still need protected access to United States markets. It is true that the current GSP program is skewed towards a relatively small number of beneficiaries. We believe, however, that a redistribution of benefits is preferable to elimination of the entire program.

The worker rights provisions of GSP are crucial to ensure both that workers in the U.S. are not threatened by an artificial competitive advantage that violates fundamental international labor standards, and that the basic rights of workers in beneficiary countries are not trampled in the rush to join the global economy.

The current worker rights provisions have been modestly successful in curbing egregious worker rights violations. However, several factors have prevented the law from being used to its full effect. The Fund supports the principal recommendations of the General Accounting Office to improve the administration of the worker rights provisions of GSP:

 Review country practice petitions on a separate and more flexible time frame from product petitions that better fits their different dynamics.

The annual petition cycle should be made more flexible to accommodate rapidly changing events in beneficiary countries. The administration has proposed a two-stage review process which lengthens the review cycle. Under this proposal, USTR would conduct a preliminary review, during which it would seek comments from the beneficiary country and conduct an interagency investigation. If the petition were accepted for "full formal review," USTR would hold hearings and issue a decision within one year of the filing of the petition. The proposal does not state what criteria would be used to distinguish a full formal review from a preliminary review. On balance, the administration's proposal should be rejected because it increases the duration and reduces the flexibility of the review process, and because it gives USTR the kind of discretion to reject petitions that has been susceptible to political pressure in the past. Instead, USTR should accept all non-frivolous petitions on a flexible schedule, and act on them promptly.

2. Make public the guidelines used in deciding whether or not to accept country practice petitions for full review.

USTR should be required to accept any non-frivolous complaint. The administration's reform proposal would require

USTR to accept any petition containing allegations that are "factually correct and of a serious nature" with respect to any enumerated worker rights criterion. This language is acceptable, provided that petitions are given a presumption of correctness. Otherwise, USTR will continue to have broad discretion to accept or reject a petition, which has been employed in the past to serve political ends.

3. Clarify the "new information" standard in the GSP regulations to indicate that failure of a BDC to fulfill the promised of progress that were instrumental in the decision to deny a petition would constitute substantial new information that could be the basis for acceptance of a petition.

The current "no new information" standard has no basis in the statute. Furthermore, the standard is illogical: because "the concept of making progress to meet international standards is at the heart of GSP country practice provisions," it is contradictory to reject petitions on the grounds that the worker rights situation in the beneficiary country is not getting worse.

4. Take all steps necessary to expand the range of sanctions that can be taken when BDCs have not met GSP country practice standards to include partial sanctions when appropriate

To balance the requirement that reviews be of finite duration, petitioners and USTR should have the option of targeting particular products from industries that violate worker rights. Partial sanctions would give worker rights advocates greater strategic flexibility, allowing pressure to be applied on a beneficiary country without requiring a complete revocation of its GSP benefits.

In addition to the GAO recommendations, the Fund believes that Congress should strengthen the substantive worker rights criteria of the GSP law. The "taking steps" language should be deleted, at least with respect to fundamental freedoms of association, organization, non-discrimination, and non-coercion. This language is not only unenforceably vague; it thwarts the intent of the statute by permitting regimes that violate worker rights to avoid sanctions with token reforms. Linking labor standards, such as wages, to a country's level of development is acceptable. But rights that are essential to democratic participation, such as the freedom of association, cannot be subordinated to the self-interests of national elites. Further, the statute should clarify petitioners' standing to seek judicial review of USTR decisions.

In summary, GSP can be both a vehicle for promoting global development through trade rather than aid, and a means of stimulating democratic political participation in developing countries by guaranteeing respect for internationally-recognized worker rights.

<sup>1.</sup> United States General Accounting Office, International Trade: Assessment of the Generalized System of Preferences Program, GAO/CGD-95-9, November, 1994, at 123.

Administration Proposal on Renewal of the Generalized System of Preferences (GSP) Program, May 16, 1994, Annex at 4-5.

Chairman CRANE. Thank you, Mr. Davis.

Mr. Rangel.

Mr. RANGEL. I have no questions, Mr. Chairman.

Chairman CRANE. Mr. Ramstad.

Mr. RAMSTAD. Thank you, Mr. Chairman.

I would like to direct this question to any or all of the witnesses. Recently, we have enacted several temporary extensions, as you know, of the GSP Program, and I would like to inquire as to whether these temporary extensions of the program have led to any disruptions for beneficiary countries or for your respective businesses

who use the program?

Ms. Lanier. Well, Mr. Ramstad, the temporary nature of the program, since it has expired actually twice and then was retroactively passed, has had huge implications for importers all over the country. I think you were out of the room when we were talking about some of the smaller importers that are members of our coalition, many of whom have very small importing operations, maybe 10 to 12 employees, where they have been doing GSP for awhile, and suddenly they have a cash duty due on a certain date, July 31, now, 1995, and may not have the money to cover the duty.

I talked about a case of a company in Sarasota, Fla., where for this particular company the \$5,000 duty that was due required the owner of the company to go out and get a loan. For some smaller

businesses that may not even be an option.

A couple of years ago when I was the secretariat for this coalition, I had an importer on the phone crying to me the day before the program expired, "I can't get a loan. I can't enter my merchan-

dise." So it is hugely disruptive.

Mr. WEISER. If I may follow on that remark. There are additional considerations for a business beyond cash flow. Obviously, there is a matter of long-term strategic business planning, seeing where a business can develop and source its production and try to strengthen through diversification where it is sourcing product both within

a country and within an arena of countries.

So, to that extent, having the stop-and-start-again nature of the GSP extension has been something that Department 56 continues to grapple with. I can well imagine that for the beneficiary countries' internal planning, as well, there is little guidance that they can take from seeing a long-term program turn on and off and be held in some question as to whether it will be continued for a meaningful period of time—in a town that is on the outskirts of Manila, we have seen over the past several years funding for public projects by the Philippine Government increase and then at times turned off and at later times been renewed. We are not certain whether that is in response to GSP and whether funding for these projects is going to be renewed or not.

What we are seeing is that the community there has been strengthening, nevertheless, because thanks to those infrastructure developments, the private vendor facilities for our vendors and for other giftware distributors, have been able to take hold. And we are seeing as a result, a general improvement, from what businesspersons can see, in the quality of life for people in that

township.

Mr. SHULMAN. In addition to those considerations, there are several others. For example, in some instances, if GSP is jeopardized, it poses hazards for U.S. consumers in the area of safety. For example, my firm represents one client that manufactures a substantial volume of electric components that are used in the building industry, many of which are required to be placed in houses according to building codes. A substantial percentage of the total is built and imported from GSP countries and obtain GSP benefits.

If those products are not imported, and available at reasonable prices, the price of housing, obviously, will go up; and people may try to cut corners and use cheaper products or no products at all

in building their houses.

Second, we have heard Robin and Mr. Weiser talk about the adverse effects on small business if GSP is abolished. So, too, is the case with larger businesses. For example, a substantial number of electronic components which go into U.S.-made automobiles are imported from countries such as Brazil. We know, for example, that the sticker price of new automobiles has increased dramatically in the past 5 years. I am in the market for replacing my automobile now and it has gone from \$17,000 in 1989 up to \$24,000 for the exact same automobile in 1995.

Third, as a Customs attorney, I would be remiss in not mentioning some of the difficulties which the Customs Service has had in the past as a result of this on-again-off-again approach to GSP. In the past, when GSP has expired, entries have been kept open or they have been liquidated and then Customs has to go back and reliquidate them, which causes them an immense amount of trouble and administrative burden as well as difficulties, as Ms. Lanier and Mr. Weiser already stated. So it is not only a burden on trade, it is a burden on government administering the program as well.

Mr. RAMSTAD. You four witnesses have done an eloquent job of articulating the merit of the GSP Program. I think all of us understand, certainly from a microeconomic standpoint, as well as a macroeconomic standpoint, the importance of the program in terms of

our businesses here.

From a geopolitical standpoint, the stated intent of the program is to promote economic growth and political stability in the developing nations. Have any of you in your trade dealings witnessed this broader policy objective being accomplished? Are we making

progress on these fronts?

Mr. Shulman. I sort of anticipated that question. I hope I don't risk overstating my case in my rather personal response. My dad was born in 1920. He just turned 75 on February 2. He is a child of the Depression, and a child of World War II. In 1942 he voluntarily enlisted in the military and was stationed in Scotland, France, Belgium, Germany, the Philippines and Japan. I was born in 1948.

I am a child of the cold war. During my childhood, I remember ducking under desks every week for air raid practice, and I remember the Cuban missile crisis when my mom stocked up in the basement with numerous provisions. It seems to me that more than any other reason for extending GSP, and we have mentioned most of the important ones here, national security may be the most important one.

It seems to me, even though I can't prove it, that in the past, if we had not supported the economies of places like South Korea and Taiwan and Hong Kong with this program, and now those places have been graduated, and I think rightfully so, there may have been more problems in those places than we had. We just don't know.

In the future, if we don't support countries like Russia and all the other former members of the Soviet Union, we don't know what sorts of problems we can get ourselves into. We do know that after World War I, the Allies substantially weakened the economy of Germany, and we know what the result of that was. So the only thing I can say to you is, yes, it is true that extending this program may not help, that is anybody's call, but if we don't try, then the consequences will be our fault.

Mr. RAMSTAD. Thank you very much, Mr. Chairman, and all of

you.

Chairman Crane. Mr. Weiser, did you want to comment?

Mr. Weiser. If I could.

In addition to the creation of jobs, which our statement indicated with respect to our industries, we have also seen over the past several years an improvement in intellectual property protections in Thailand, a beneficiary country for which I understand several years ago there was considerable concern over whether the United States and other countries were achieving the benefits of modern intellectual property protection. We at least have not been experiencing any difficulty of that type among our products that are generated in Thailand. And those that are coming out of Thailand are some of the most distinctive in our line.

Mr. DAVIS. Could I respond, also?

I think from the perspective of a worker rights advocate, the premise of GSP, which is that we can promote democratic political development through trade, gives us a mixed result. Clearly, there has been some—the worker rights provisions attached to GSP since 1984 have had some effectiveness. They have created some leverage with political regimes that have a record and have a history of violating worker rights.

We think, and in part it is due to some of the administrative obstacles that I outlined, in part perhaps due to some other political factors and to the limits of the program itself, that the progress so far has been mixed. We have not seen the type of response that we would like to see in that area. But it does seem that democratic po-

litical development—I will stop there.

Chairman CRANE. I want to thank you all for giving of your time so generously, and also for your input on GSP extension, and look forward to guaranteeing that come in July we are going for it.

I thank you for your testimony. The subcommittee is adjourned.

[Whereupon, at 4:30 p.m., the hearing was adjourned.]

[Submissions for the record follow:]

#### Before the Ways and Means Trade Subcommitte U.S. House of Representatives

# Statement of The American Chamber of Commerce of the Dominican Republic Supporting Extension of the General System of Preferences

March 13, 1995

The American Chamber of Commerce of the Dominican Republic strongly supports the extension of the GSP program for a minimum period of ten years, as was initially provided in Title V of the Trade Act of 1974. This additional period of time will give industries in the Dominican Republic the proper time to plan and continue expansion of their operations.

Since its implementation in 1975, the GSP program has been essential in furthering the economic development and social advancement of the Dominican Republic. This program has allowed the country to increase exports and foreign exchange earnings, needed to diversify the economy and reduce dependence on traditional sectors and on foreign aid.

The Dominican Republic has become the sixth most important trading partner of the United States in the hemisphere, and the largest among CBI countries. Bilateral trade has climbed to approximately \$6 billion and of the forty-seven nations comprising Latin America and the Caribbean, the Dominican Republic's trade with the United States is surpassed only by Mexico, Brazil, Venezuela, Colombia and Argentina. The GSP and CBI programs played an important role in which is now an impressive reality. A true example of this, is the tremendous growth experienced in the Dominican free zone operations.

Free zones are the fastest growing sector of the Dominican economy. At present 476 companies operate in the country's thirty-one free trade zones, employing more than 176,000 workers. Most of businesses are either subsidiaries of U.S. companies, or affiliated with U.S. companies in one way or another. Free zone companies account for approximately one-third of the Dominican Republic's exports, and ninety-six percent of these exports go to the United States.

The GSP program has been of significant benefit to the United States because of many 'production-sharing' arrangements between businesses in our country and in the United States. Significantly, since 1986 the United States has had a consistent surplus in merchandise trade with the Caribbean Basin countries. Now that NAFTA has gone into effect, extension of the GSP program is essential for businesses in our country and elsewhere in the region, in order to maintain their competitiveness with suppliers in Mexico, and to help us compete with Far Eastern suppliers.

The continuation of the GSP program will also enable CBI countries to attract foreign investment, an essential ingredient for their continued economic development consistent with the pro-free trade declarations made at the Summit of the Americas.

In conclusion, the American Chamber of Commerce of the Dominican Republic strongly urges Congress to extend this vital program for a minimum ten-year period.

95-7

# SUBMITTED STATEMENT OF MARK A. ANDERSON, DIRECTOR, TASK FORCE ON TRADE AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS TO THE COMMITTEE ON WAYS AND MEANS, SUBCOMMITTEE ON TRADE U.S. HOUSE OF REPRESENTATIVES

# ON THE GENERALIZED SYSTEM OF PREFERENCES

#### February 27, 1995

The AFL-CIO appreciates the opportunity to present its views on the possible extension of the Generalized System of Preferences (GSP) and particularly on the worker rights conditionality contained in the statute.

The linkage of worker rights to trade benefits under the GSP can be a powerful instrument to encourage the adoption of internationally recognized labor rights and standards, and thus support the basic premise of this government program to promote equitable economic growth and social progress in the less developed world. We are concerned however, that the program is often operated as an expensive foreign aid program to support short-term foreign policy objectives and to provide financial benefits for U.S. and foreign multinational corporations through the granting of zero tariffs for their products entering the U.S. market

Any extension of GSP should include improvements in the implementation of worker rights conditionality, the graduation of participant countries that are successful exporters, the exclusion of import sensitive items, the elimination of competitive need limit waivers, and a prohibition on the addition of China to the program.

The Generalized System of Preferences, enacted by Congress in 1974, provides duty-free treatment for eligible articles exported to the U.S. from "beneficiary developing countries" ("BDCs"). The guiding principle of the program, reflected in the original legislative history, is that giving BDCs a temporary trading advantage through duty-free treatment of exports would encourage long-term, sustainable development, thereby reducing the need for unilateral U.S. aid and increasing demand for U.S. products. The initial program failed to accomplish any measurable development goals. As Congress expressed in the legislative history to the first renewal of GSP in 1984, the benefits of the program were largely restricted to the "privileged clites" in the developing countries. To solve this problem, Congress amended GSP in 1984 by adding a new requirement for eligibility as a BDC -- now a country must be "taking steps" to comply with "internationally recognized worker rights. "This provision was designed to improve the situation for workers in BDCs, who could be expected to gain a greater share of the economic benefits flowing from the GSP program. In addition, Congress was concerned that the lack of worker rights acted as an inducement for U.S.-based firms to transfer production to BDCs, thereby displacing U.S. workers.

The AFL-CIO believes that the 1984 amendments have not been as effective as intended in achieving the development goals of GSP. Since 1985, there have been a total of 95 petitions concerning worker right's eligibility under GSP. Of this number, 34 were summarily rejected by the Administration, and therefore not subject to any review. Thirty-nine were accepted for review and the other 22 were petitions on cases already accepted but continued over multiple petition periods.

As a result of eight years of activity, seven countries experienced a withdrawal of benefits on worker rights grounds. Another three saw these benefits withdrawn as a result of the Executive Branch's general review in 1987. Today only five countries—Burma, Mauritania, Liberia, Sudan, and Syria continue to be denied preferential access.

The AFL-CIO believes that a far greater number of countries are not adhering to internationally recognized worker rights and their continued eligibility is due to a failure to apply clear standards, and a review process that is opaque and inconsistent.

Amendments are necessary to ensure appropriate enforcement of the worker rights provision and to implement the intent of Congress in passing the original GSP program.

#### Clarifying the Standard of "Internationally Recognized Worker Rights."

The discretion to determine whether a country has been "taking steps" has been used by the Executive Branch to avoid implementation of the worker rights provision. This has allowed countries who abuse worker rights to continue receiving millions of dollars in GSP benefits without fulfilling the requirements of the statute. For example, two countries—Indonesia and Malaysia--currently subject to worker rights petitions—have been found over the years to be "taking steps," while still denying workers their basic rights.

The worker rights provision is the only condition to GSP eligibility that includes the "taking steps" language. The "taking steps" language should be deleted and the phrase, "has adopted and is enforcing laws" that protect internationally recognized worker rights be substituted. This change will provide a clear standard upon which judgements can be made, and still leave the President with discretion to continue GSP benefits, notwithstanding a country's failure to meet the requirements, after the President reports to the Congress his determination that it is in the economic interests of the U.S. to do so.

# Improving the Procedures of the GSP Review Process

There is general agreement that the present GSP review has suffered from arbitrary determinations, largely due to the lack of clear rules. The AFL-CIO believes that new regulations are needed to make the review process more transparent, predictable and consistent. We are particularly concerned that more than one-third of the worker rights petitions submitted over the last eight years were not even reviewed.

At minimum, new regulations should include the following elements:

- \* Any petition filed shall be accepted for review unless there is a specific finding that the petition is frivolous.
- Any person may file a petition seeking the withdrawal of the designation as a beneficiary developing country for failing to meet the worker rights criteria of the statute.
- \* Failure to meet the worker rights criteria in specific sectors can result in a partial withdrawal of benefits.

This last point is particularly important. The U.S. should be able to address specific problem areas without penalizing the entire country.

# General Review

The best way to judge whether any nation meets or fails to meet the eligibility requirements of this statute is through continued review. Most nations which are currently judged to be eligible to receive GSP benefits have not been subject to a comprehensive review. The AFL-CIO believes that a review of conditions in beneficiary developing countries should be required every three years.

# **Country Graduation**

One intention of GSP was to improve the economic condition of developing countries by temporarily helping them to increase exports to the U.S. Today, the majority of GSP duty-free imports are accounted for by just three of the more than 120 BDC's. Those countries, Malaysia, Thailand, and Brazil are successful and substantial exporters, and are no longer in need of preferential treatment. All enjoy bilateral trade surpluses with the U.S. Their graduation would reallocate GSP benefits to countries that have greater need.

There is ample precedent for such an action. President Reagan, when he announced in 1988 his intention to graduate Singapore, Korea, Taiwan, and Hong Kong from the GSP program, stated that these countries had "achieved an impressive level of economic development and competitiveness, which can be sustained without the preferences provided by the program." The same, particularly with regard to their international competitiveness, can be said for Malaysia, Thailand, and Brazil. Finally, graduation would also substantially reduce the cost to the federal budget of this program, and make a multi-year extension feasible.

## Import Sensitive Products

Current statute excludes from duty-free treatment certain import sensitive items, including textile and apparel articles, watches, footwear, handbags, luggage, flat goods, work gloves, leather apparel, and certain electronics, steel, and glass products. The AFL-CIO believes these exclusions must be maintained. At a time when the U.S. is experiencing record merchandise trade deficits, the country can ill afford to further harm those domestic industries and workers that have been negatively impacted by imports.

## Competitive Need Limits

Competitive need limits were originally legislated to spread GSP benefits among beneficiary developing countries and to prevent undue harm to domestic industries from competitive products receiving duty-free treatment. Under competitive need limits, if imports of a product from a BDC exceed a certain dollar amount, or represent more than half of total U.S. imports of that product in a calendar year period, GSP treatment must be removed and the normal rate of duty restored. Under certain circumstances, however, the President can waive the dollar and import share competitive need limits, thereby continuing duty-free treatment.

The AFL-CIO believes that the waiver authority has been abused in the past, and should be eliminated.

# CHINA AND GSP

Under current law, the President is prohibited from designating as a BDC a country which is communist, unless its goods receive MFN treatment, is a GATT contracting Party and a member of the IMF, and is not controlled by international communism. It is possible that China may soon fulfill these criteria and therefore be eligible for GSP designation. To ensure that this possibility does not occur, the AFL-ClO urges that China be added to the list of GSP ineligible countries found in Sec. 502.

The GSP continues to hold out the promise of promoting equitable social and economic development. These needed changes will bring us closer to realizing that goal.

March 13, 1995

The Honorable Philip M. Crane Chairman, Subcommittee on Trade Committee on Ways and Means U.S. House of Representatives 1102 Longworth House Office Building Washington, DC 20515

#### Dear Chairman Crane:

In response to the Trade Subcommittee's request for written comments on an extension of the U.S. Generalized System of Preferences (GSP), Apple Computer, Inc. wishes to express its strong support for legislation to renew the program beyond its July 31 expiration date. In particular, Apple urges the Subcommittee to ensure that the GSP is renewed on a long-term basis and that Malaysia's status as a beneficiary country is preserved.

Headquartered in Cupertino, California, Apple is one of the world's largest personal computer manufacturers with sales of \$9.2 billion in 1994 and employment of 15,000. Almost 10 percent of Apple's total worldwide revenues are reinvested in its research and development base, and 90 percent of the workforce dedicated to this base is located here in the United States.

Apple relies on the GSP program to import personal computers and components from Malaysia free of duty. A failure by Congress to renew the GSP automatically would result in the imposition of a 3.5 percent duty to these products, forcing Apple to bear substantial additional duty costs annually.

The GSP, by helping Apple contain costs, makes an important contribution to our U.S. operations and workers. The GSP's duty savings apply both to finished personal computers and to the logic boards we import from Malaysia for further processing and incorporation into our U.S.-made computers. Holding down the cost of this key component strengthens the competitiveness of the finished product, and directly benefits the Apple workers in California and Colorado engaged in related manufacturing and assembly operations.

We wish to stress the importance of extending GSP benefits with respect to Malaysia in particular. Apple and most other major U.S. electronics manufacturers maintain strong manufacturing interrelationships with Malaysia, with duty-free GSP treatment undergirding much of this activity. Notwithstanding Malaysia's ranking as the top GSP supplier, a continuation of its GSP status is warranted by Malaysia's still modest level of economic development and is necessitated by U.S. manufacturers' strong reliance on Malaysian sourcing.

In conclusion, Apple strongly supports legislation renewing the GSP program on a long-term basis and the maintenance of full GSP benefits for Malaysia.

Sincerely

Apple Computer, Inc. Apple Government Affine 1667 K Street, N.W. Sone 1100 Washington, D.C. 2000 (202) 166-7101 (202) 166-7105 LAX

William P. Fasig Corporate Manager, International Government Affairs Embassy of the Argentine Republic

The Embassy of the Argentine Republic presents its compliments to the US House of Representatives - Ways & Means Committee, and has the honor to submit written comments in favor of the reauthorization of the Generalized System of Preferences (GSP).

- The macroeconomics reform program in place in Argentina has allowed and helped the private sectors' efforts to join the global market. The GSP allows the industrial sectors covered by the system to be more competitive vis a vis products manufactured by companies in developed countries that receive "Most Favorable Nation" (MFN) duty status.
- 2. The possibility of greater exports increases the installed capacity utilization, promotes new investments, the adoption of advanced technologies, and creates jobs. Many investment opportunities and the supply of capital goods have been utilized by American companies: USA exports to Argentina jumped from U\$S 1.2 billions to U\$S 4.5 billions between 1990 and 1994 (+ 279 %). In 1994, 50 % of total American exports to Argentina were capital goods. This relationship is also experienced in other GSP beneficiary countries.
- 3. Strategic planning by enterprises requires a long term stable environment. The Argentine exporting firms, as well as the American importing ones, that trade in eligible GSP products need the System to be reauthorized for several years, i.e. 10 years. If the reauthorization is for the short term, it will generate uncertainty eroding the benefits that inspired the introduction of the program.
- 4. The Argentine Republic shares with the United States of America the application and philosophy of open markets and gives its full support to the reauthorization of GSP which promotes economic development through trade rather than through foreign aid.

The Embassy of the Argentine Republic avails itself of this opportunity to renew to the US House of Representatives - Ways and Means Committee - the assurances of its highest consideration.

Washington DC, March 13th., 1995.

REPRESENTATIVES

TO THE US HOUSE OF REPRESENTATIVES -WAYS & MEANS COMMITTEE-WASHINGTON, DC



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BARBARA W. NORTH

MICHAEL A. SAMUELS President, Sentuels International Associates, Inc. March 17, 1995

The Honorable Philip M. Crane 233 Cannon House Office Building Washington, DC 20515

Dear Congressman Crane:

I am writing to urge you to renew for at least five more years the Generalized System of Preferences (GSP) program before it expires July 31, 1995.

Consumers for World Trade (CWT), a national, non-profit, non-partisan organization which focuses on the consumers' interest in international trade policy, strongly supports GSP renewal in order to lower the costs of goods of importance to many Americans. Many consumer products are imported duty-free under GSP, including electronics, sporting goods, wood furniture, and food products. GSP only provides duty free-benefits to non-import sensitive products, so the consumer can pay lower prices without harming U.S. workers.

I understand that some believe, now that the Uruguay Round is reducing tariffs and Mexico has duty-free access to the United States under NAFTA, that GSP does not matter any more. Let me assure you that this is not the case. GSP matters a great deal to American purchasers of goods and services. I strongly urge you to find a way to renew this important program before it expires on July 31.

Sincerely,

Doreen L. Brown President

#### STATEMENT

ON BEHALF OF THE COPPER AND BRASS FABRICATORS COUNCIL, INC.

BEFORE THE SUBCOMMITTEE ON TRADE, COMMITTEE ON WAYS AND MEANS UNITED STATES HOUSE OF REPRESENTATIVES

#### EXTENSION OF THE GENERALIZED SYSTEM OF PREFERENCES

## March 13, 1995

This statement is submitted on behalf of the Copper and Brass Fabricators Council, Inc. (the Council) and its 22 member companies (see Appendix A for a list of the Council's members). The Council is a trade association which represents the principal copper and brass mills in the United States. These mills together account for the fabrication of more than 85 percent of all copper and brass mill products produced in the United States, including sheet, strip, plate, foil, bar, rod, and both plumbing and commercial tube. These products are used in a wide variety of applications, chiefly in the automotive, construction, and electrical/electronic industries.

The U.S. brass mill industry is an extremely import sensitive industry as evidenced by the antidumping and countervailing duty orders resulting from cases filed by Council member companies in the mid-1980's and their effects on the U.S. market. These cases resulted in 13 antidumping and countervailing duty orders against 11 countries involving imports of brass sheet and strip and low fuming brazing rod. These orders continue today. Since the orders went into effect, the industry has experienced a marked decrease in imports from targeted countries. The industry also requested that the Department of Commerce monitor imports of brass sheet and strip from seven additional supplier countries, which had no presence in the market when the antidumping and countervailing duty cases were initiated, but whose import levels increased dramatically after the antidumping and countervailing duty orders became effective. Several of the antidumping and countervailing duty orders and monitoring requests were against GSP eligible countries.

As the Subcommittee deliberates on the merits of extending the Generalized System of Preferences (GSP) program, the Council urges the Subcommittee to consider the following two issues; (1) lowering the threshold for the competitive needs limit test for articles, and (2) lowering the per capita gross national product (GNP) threshold for GSP eligibility for countries.

Under the current statute, if exports from a GSP eligible country exceed the threshold set forth in the statute, either in dollars or percentage of total export value to the U.S. for an article, the country is not treated as a beneficiary country for that article. In 1994, the threshold dollar amount is expected to be approximately \$110 million calculated using U.S. GNP for 1974 as

the base. The percentage threshold as outlined in the statute is 50 percent of the total appraised value of total U.S. imports for an article for developing countries and 25 percent for more developed countries.

For industries such as the brass mill industry where total world imports of all brass mill products total only \$600 - 800 million dollars per year, it would be difficult for any one country to meet the dollar threshold. It would be even more difficult or impossible to meet the percentage threshold when measured against U.S. imports from more than 55 countries worldwide. Having a threshold so high basically allows a GSP eligible country to export to the U.S. without having its eligibility threatened. More developed countries such as Malaysia and Brazil are just as competitive in the brass mill industry as countries like Germany and Japan yet they enjoy the benefits of GSP for brass mill products.

The current statute also sets a per capita GNP threshold for more developed countries to "graduate" from the GSP program. Por 1993, the per capita GNP threshold was set at approximately \$11,300, and for 1994, the threshold is expected to be approximately \$11,800. The idea of GSP is to accord benefits to less developed countries until the countries are able to compete in the world market place sufficiently, not until they are fully developed. There are countries that are not GSP eligible but have less than \$11,300 in 1993 GNP such as S. Korea. Very few would argue that S. Korea is a less developed country that needs GSP benefits even though its GNP was far less than the threshold amount.

The Council opposes any extension of the GSP program with the existing competitive needs limit and the per capita GNP thresholds. Both are too generous given the enormous U.S. trade deficit and the highly industrialized character of many so-called developing countries. Such high ceilings benefit those countries whose exports to the U.S. are competitive with U.S. producers and with imports from developed countries. Maintaining the thresholds at the present level results in real costs in the form of lost revenue to the U.S. Government. At a time when the U.S. Government is cutting benefits for its own people, it cannot and should not "give away" benefits to foreign countries which no longer need them.

As the Subcommittee formulates extension language on GSP, the Council requests that it look very carefully at the current statute dealing with these issues. The thresholds set forth in the current statute benefits countries that are sufficiently developed to export to the U.S. without GSP treatment. As a recent General Accounting Office study shows, GSP program benefits go to more developed countries rather than less developed countries.

In summary, the Subcommittee should carefully address these issues before extending the GSP program. Any extension should be faithful to the basic premise of the GSP program; that is assistance to less developed countries, not subsidies to developed countries' exports into the U.S. The Council urges the Subcommittee to not permit a reauthorization of the program before making these critical changes in eligibility standards.

Respectfully submitted

Joseph May

Attachment

#### COPPER 4 BRASS FABRICATORS COUNCIL, INC. MEMBERSHIP LIST February 16, 1995

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Copper & Bress Fabricators Council, Inc.



Cyprus Foote Mineral Company 348 Holiday Inn Drive Kings Mountain, North Carolina 28086-0889 (704) 738-2501 Fax (704) 734-0208; Telex 173176

STATEMENT OF CYPRUS AMAX MINERALS COMPANY REGARDING THE RENEWAL OF THE UNITED STATES GENERALIZED SYSTEM OF PREFERENCES PROGRAM

#### I. Introduction

We are writing to support the renewal of the United States Generalized System of Preferences ("GSP") Program. Cyprus Amax supports the renewal of the program in its current form.

Cyprus Amax owns and operates lithium mining and lithium chemical processing facilities at Kings Mountain, North Carolina and Silver Peak, Nevada. In addition, Cyprus Amax owns and operates lithium chemical processing facilities at Sunbright, Virginia, and New Johnsonville, Tennessee. Cyprus Amax also imports lithium carbonate duty free from Chile under the GSP program. Lithium carbonate has enjoyed duty free treatment under this program since 1987. As a result of a petition filed by Cyprus Foote Mineral Company in the 1991 Annual Raview, lithium carbonate from Chile was granted a waiver of the program's competitive need limit.

## II. Cyprus Amax's Experience with the Program

The United States is the world's leading producer, consumer and exporter of lithium and lithium products, including lithium carbonate. From 1986 through 1991, the United States exported approximately 2200 metric tons of lithium and lithium products per year, while imports during the same period averaged approximately 740 metric tons per year.

The primary commercial markets for lithium carbonate are the production of primary aluminum metal, glass, ceramics, frit and porcelain enamel. Lithium carbonate is also the primary raw material for the production of other important compounds used in certain lubricants and greases, sir conditioning systems, lithium metal production, naval submarine air purification systems, and synthetic rubber production. Additionally, lithium metal is used in commercial and military batteries, and other high-tech applications such as heart pace-makers and various military weaponry and hardwars. It is clear that duty free access to this input product is beneficial to many U.S. industries.

If lithium carbonate became dutiable upon importation into the United States, Chilean exports may be diverted directly to U.S. export markets, thus depriving the U.S. producers of important value-added revenue on downstream lithium products such as lithium hydroxide, lithium chloride and lithium metal. For this reason, we submit that continued duty free treatment under the GSP program is in the best interests of the U.S. lithium industry. We note that imports of this product from Chile are



There was a brief time period when Chile was suspended from beneficiary developing country status. However, Chile was reinstated in the program effective February 1, 1991.

granted duty free treatment into other developed countries such as Japan and the European Union.

Despite duty free treatment of lithium carbonate from Chile (which accounts for approximately 99 percent of all imports of lithium carbonate into the United States), the United States has remained a net exporter of lithium and lithium products.

As noted above, duty free treatment for lithium carbonate encourages exports to the United States for value added processing. However, imports from Chile also allow Cyprus Amax to extract and utilize its U.S. lithium reserves in the most resource-conservative manner possible. Without GSP, this benefit could also be lost.

The GSP program has enhanced the growth of the economies of the beneficiary developing countries in the program. For example, the mining of lithium carbonate is a relatively new industry for Chile, the development and construction of which infused approximately 50 million dollars in 1983 and 2 million dollars per year in capital improvements over the last 10 years into the Chilean economy. In Chile, the development of this industry has helped to diversify the economy and reduce its dependence upon the fluctuating worldwide copper markets. Exports of lithium carbonate and other products under the GSP program also help provide the necessary foreign currency to meet the foreign interest payments on Chile's external debt. Exports of lithium carbonate have had a positive effect on production and employment in Chile.

The GSP program has worked in the case of lithium carbonate from Chile. It has benefitted both the United States and Chile. Renewal of the program should continue this trend. We submit that the experiences that Cyprus has witnessed with imports from lithium carbonate from Chile are not unique. Duty free treatment, particularly for products that are subject to value added processing in the United States, provides benefits for both the United States and its developing trading partners. The program should be renewed with the goal of continued enhancement of the economic development of these countries, particularly in those sectors where the developing countries are not competitive internationally. The benefits to the United States include access to less expensive input products that make the U.S. downstream industries more competitive.

Additionally, increased exports from these countries make the countries more stable, creating export markets for U.S. products. The United States is a principal supplier of goods and services to Chile, maintaining approximately one-fourth of the Chilean import market. Major U.S. export products to Chile include machinery and equipment for mining, earth-moving, food processing and packaging, agriculture, chemicals, forestry, woodworking and pulp and paper.

Finally, with the enactment of the North American Free Trade Agreement ("NAFTA") and the preferential treatment now afforded to Mexico, it is crucial that other developing countries in the hemisphere can maintain economic growth. The United States has expressed an interest in the future expansion of NAFTA to other countries in the hemisphere. We submit that the continuation of the GSP program, along with other trade measures, will assist in the economic development of these countries so that they will be able to participate in an extended NAFTA when that time comes.

#### III. Procedural Issues

In 1992 the United States Trade Representative's office approved a waiver of the competitive need limit for lithium carbonate from Chile. This waiver was sought because, while 1991 imports of lithium carbonate were less than 10 percent of the competitive need dollar limit, almost all of the imports were from Chile, thus exceeding the 50 percent competitive need limit. We submit that if the program is reinstated, as we believe it should, the waiver provisions and existing waivers be kept in place so that for instances such as those described herein, relatively small volumes of imports that happen to account for more than 50 percent of all imports remain eligible under the program.

Under the current GSP program, once a waiver is granted it remains in effect unless challenged by an interested party. The waiver does not have to be requested each year. This feature of the GSP program should also be reinstated. Absent a petition by a domestic party, an annual renewal procedure is an unnecessary administrative burden for both the government and the party seeking the waiver.

The program currently contains sufficient safeguards, in the graduation provisions and competitive need limitations to ensure that countries and particular sectors that no longer require assistance are removed from the program. We submit that a renewed GSP program should contain similar safeguards.

#### IV. Conclusion

The United States has realized benefits from the GSP program in terms of access to inputs and developing stable export markets. The program has benefitted our developing trade partners by assisting them to become more competitive in certain sectors where they were not competitive. The program should be renewed with these goals in mind. The procedural safeguards in the program should remain. Specifically where relatively small volumes of input products are imported from one or two countries, so that they exceed the 50 percent competitive need limit, they should remain duty free within the program.

Cyprus Amax would be happy to answer questions regarding its experience with this program.

Embassy of the Exech Republic 3900 Spring of Trucken St. N. W. Warrington, D. C. 20008

Attn:
Mr. Philip D. Moseley
Chief of Staff
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Written Statement for the Record of the Hearing of the Subcommittee on Trade of the Committee on Ways and Means of the U.S. House of Representatives, held on February 27, 1995

The Czech Republic confirms its interest in the GSP renewal.

The Czech Republic wishes hereby to confirm its interest in the renewal of the Generalized System of Preferences by the U.S.Congress upon its expiration, which is due on July 31, 1995. The Czech Republic is one of the two successor states of the former Czechoslovakia. The former Czechoslovakia became eligible for the GSP effective May 29, 1991.

The Czech Republic welcomed its designation as a beneficiary of the United States GSP scheme as a recognition of the radical political and economic transformation it has undertaken since 1989. The Czech Government shares the view expressed in the testimony of Mr.fra Shapiro, USTR Senior Counsel at the hèaring on February 27, 1995, that: "the GSP program is an important aspect of ... support for the democratic and market reform in Central and Eastern Europe ...". The U.S. GSP scheme provides for an expanded window of opportunity for the Czech businesses, an instrument for better access to the U.S. market and - last but not least - it also translates into lower prices for U.S. consumers.

GSP has become an important component of Czech trade with the United States. Each year approximately 50% of all Czech exports (i.e. some \$ 130 million) enter the U.S. market under the GSP. Czech exporters count upon the GSP duty-free access in their business plans and decisions. Renewal of the GSP system for several years would significantly add to the predictability of the environment in the U.S. market - a necessary component for market decisions for Czech producers and exporters. At the same time the Czech Government recognizes the importance of the GSP as a market access instrument against the background of continued U.S. trade surplus in trade with the Czech Republic (\$ 148 mil. in 1993, according to Czech data).

Even though the relative weight of the imports from the Czech Republic to the U.S. under GSP represents a marginal amount as compared to all the U.S. annual GSP imports ( some \$ 16 billion), the Czech Republic wishes to add its voice to those who advocate the GSP renewal by the U.S. Congress as of August 1, 1995.

Washington, D.C., March 10,1995

Michael ŽANTOVSKÝ Ambassador

Thoma: (202) 363-6315 Tux: (202) 366-8540

# Before the Committee on Ways and Means Subcommittee on Trade U.S. House of Representatives

# Statement of

Asociación Dominicana de Zonas Francas
- ADOZONA Dominican Association of Free Zones

on

# **Extension of the GSP Program**

#### Introduction

The Dominican private sector has been an enthusiastic supporter of the GSP program since its inception in 1975, and strongly urges the Trade Subcommittee to vote for a ten year extension of the program with the changes recommended below.

#### Suggested Changes

The Dominican private sector believes that certain changes are needed to improve the administration of the program and enhance its effectiveness in achieving the desired forceign policy and economic development goals and other objectives. In particular, the Dominican private sector supports the adoption of the following:

- a five-year "safe harbor" rule for countries whose worker rights or intellectual property protection practices have been investigated and covered by a favorable decision, and
- the replacement of the "substantial new information" test with a stricter standard, a "compelling new information" test during the safe harbor period.

These two elements will serve to protect a beneficiary country against harmful premature reinvestigations after thorough GSP investigations have produced favorable decisions concerning a country's worker rights or intellectual property practices.

The private sector consists of companies operating in the Dominican Republic and its free zones (<u>zonas francas</u>) as well as the umbrella organizations representing private sector companies and individuals. These organizations are the Dominican Association of Free Zones (<u>Asociación Dominicana de Zonas Francas, Inc.</u> or ADOZONA), the National Council of Businessmen (<u>Consejo Nacional de Hombres de Empresas</u>, or CNHE), and the U.S. Chamber of Commerce of the Dominican Republic (Amcham). (Hereinafter these companies and organizations will be referred to collectively as "the Dominican private sector".)

#### Background

For the last twenty years, the GSP program has been of immense importance to the economy of the Dominican Republic. The Dominican Republic was designated a "beneficiary developing country" (BDC) for purposes of eligibility for duty-free treatment under GSP on March 26, 1975 (Executive Order No. 11844, 40 F.R. 13295). This eligibility has continued without interruption since that time. According to U.S. International Trade Commission (USITC) statistics, imports of GSP articles from the Dominican Republic totalled \$135,168,000 in 1994 (Customs valuation basis). GSP imports in 1993 were \$119,196,000. CBI imports for 1994 totalled \$751,028,000 and \$657,673,000 in 1993.

To understand the importance of the GSP program for the Dominican Republic, it is essential to keep in mind that the Dominican Republic is a poor country slowly emerging from its dependence on the sugar industry.

1. Political/Economic Setting. The Dominican Republic is a small tropical nation, about the size of Vermont and New Hampshire combined. It occupies the eastern two-thirds of the island of Hispaniola, which it shares with Haiti. It is a functioning democracy and is the largest democracy in the Caribbean, with a population estimated at approximately 7.5 million people. The Dominican Republic has a mixed economy based primarily on agriculture, services, and light manufacturing. Sugar has been a cornerstone of the economy of the Dominican Republic and remains so today. Historically ten percent of the population of the Dominican Republic has been dependent on the sugar industry for its livelihood and over the last decade sugar exports have accounted for thirty percent of the country's total export earnings.

Over the last few years, however, the importance of the sugar industry has decreased and tourism, free trade zones, and remittances from Dominicans living abroad now generate more foreign exchange than sugar. The Government of the Dominican Republic accounts for nearly twenty-five percent of the domestic product and controls several major industries, including sugar, electricity, and the national airline, among others.

- 2. <u>CBI Benefits</u>. Various Dominican products are excluded from duty-free treatment under GSP, but are eligible for duty-free entry under the CBI. The most important of these products is sugar. Due to duty-free treatment under CBI, Dominican sugar is spared duties of \$13.78/metric ton. The Dominican Republic's sugar quota for FY 1995 is currently 219, 404 metric tons for fourteen months (207,300 p.a.). Thus Dominican sugar exporters save \$3 million per year at existing quota levels. In addition, CBI eligibility makes Dominican textiles and apparel eligible for increased access to the U.S. market under the Guaranteed Access Program. CBI eligibility permits the investment of Internal Revenue Code Section 936 funds in the Dominican Republic, a feature which is just beginning to take hold in the Dominican Republic.
- 3. Importance of Free Zones to the Dominican Economy. The free trade zones are extremely important to the Dominican Republic. They are the fastest growing sector of the Dominican

Except for small quota years, Dominican sugar imports exceed the "competitive need" limitations for duty-free entry under GSP.

economy. At present, 476 companies operate in the country's thirty-one free trade zones, and they employ roughly 175,000 workers. Most of the businesses are either subsidiaries of U.S. companies, or affiliated with U.S. companies in one way or another.

Dominican law encourages companies to establish operations in free zones and provides significant tax and other benefits for doing so. Likewise, there are a number of tax and tariff benefits available under U.S. law for U.S. companies that set up "production-sharing" operations in the Dominican Republic. In addition to the duty-free treatment available under the GSP and CBI programs, U.S. companies are attracted by the duty-savings available under HTS heading 9802 (formerly TSUS items 806 and 807); the ability to use tax-deferred Section 936 funds for investment; and the ability to use U.S.-origin materials toward meeting the thirty-five percent "value added" test for duty-free treatment under the CBI. (Materials or components produced in the United States may be applied toward meeting fifteen percent of the thirty-five percent CBI local content requirement.) The benefits described above, the Guaranteed Access Level Program for textiles, and the significant investments made by the Dominican Government, and, since 1984, by Dominican entrepreneurs,' have combined to develop the facilities in the free zones and have brought about the huge increase in light manufacturing operations in Dominican free zones over the last decade.

Now free zone companies account for approximately one-third of the Dominican Republic's exports, ninety-six percent of which go to the United States. The Dominican private sector views free zones, particularly privately financed free zones, as an important vehicle for attracting foreign investment and creating new employment and foreign exchange. Moreover, increased development in free zones will only work to create and preserve more export-related jobs in the United States because of the "production-sharing" aspects of companies' operations in the Dominican free zones.

4. U.S.-Dominican Trade Relations. The Dominican Republic is now the United States' biggest trading partner among the thirty-six countries of the Caribbean and Central American region. In 1994 the Dominican Republic imported almost \$2.8 billion from the United States; bilateral trade reached approximately \$6 billion, or twenty-six percent of the region's trade with the United States. Of the forty-seven nations in Latin America and the Caribbean, the Dominican Republic is the fifth largest U.S. trading partner, behind only Mexico, Venezuela, Brazil, and Colombia."

## Poreign Policy and Other Benefits of the GSP Program

Over the years the GSP program has proven its effectiveness as a tool to achieve significant results in foreign policy and economic development, and in furthering social advancement in

<sup>&</sup>lt;sup>3</sup> About one-half of the industrial parks where the free zones operate are Government-owned. The rest are private.

<sup>4</sup> For an analysis of the benefits of "production-sharing" to the United States, <u>See</u> "Production Sharing: U.S. Imports under Harmonized Tariff Schedule Subheadings 9802.00.60 and 9802.00.80, 1986-1989, 1987-1990, 1988-1991, and 1989-1992," USITC Publications 2365, 2469, 2592, and 2729, March and December 1991, February 1993, and February 1994 respectively.

Source: 1994 U.S. Department of Commerce statistics.

beneficiary countries. Starting in 1975, statistics prove beyond doubt that the GSP program has accelerated economic growth and development in the less-developed countries that are beneficiaries of the program, by enabling them to increase their exports and foreign exchange earnings needed to diversify their economies and reduce dependence on foreign aid. At the same time, through the annual review process and associated mechanisms, the United States has been able to influence beneficiary countries' attitudes and actions toward improving social conditions in the countries such as improvements in worker rights.

This aspect of the program has been somewhat controversial because assorted interest groups in the United States have, on occasion, used the petition process to target selected countries and assail their qualifications as beneficiary countries under the various eligibility criteria. Nevertheless, the program has worked remarkably well overall, to spur economic development in beneficiary countries, and at the same time, to protect importsensitive U.S. industries and particular industry sectors. In addition, the program has shown itself to be extremely flexible, able to adjust to changing international market conditions through the "graduation" and "competitive need" mechanisms.

On the other hand, a failure to continue the GSP program at the very time the United States is in the early stages of implementing NAFTA could be interpreted by many of the other BDCs, particularly in the Northern Hemisphere, as a discriminatory decision. This action could not only adversely affect future efforts to carry out positive foreign policy, but also could erode any benefits gained as a result of the use of GSP in the past.

#### Program Administration

As private sector representatives testified to the GSP Subcommittee at its 1993 hearings, the Dominican free zones and individual companies have made significant efforts to be "corporate good citizens" in the Dominican Republic, and have made many efforts to improve working conditions at plants in the various free zones and to improve living conditions and health and educational levels in the neighboring community.

Over the past six years since 1989, the Dominican Republic's eligibility to participate in the GSP program has been investigated three separate times with respect to worker rights and intellectual property protection practices. In fact, the only time when the Dominican Republic was not being investigated during this period was from mid-1991 to mid-1993. All of these investigations were ultimately resolved favorably for the Dominican Republic.

These investigations have been a tremendous disincentive to increased investment in the Dominican Republic. Therefore, the Dominican private sector urges the Subcommittee to consider carefully whether the criteria used by USTR to accept petitions calling for the revocation of a country's GSP (and CBI) eligibility should not be made more stringent when a country has already been investigated and a favorable decision has previously been made on the same subject.

For example, the Dominican Republic's worker rights practices, including those related to unionization in its free zones were investigated and cleared in April 1991. Two years later, in the spring of 1993, the AFL-CIO filed a complaint on the same subject, in spite of the numerous positive steps taken by the Dominican Government since the 1991 favorable decision to enhance the protections afforded to workers in the free zones,

especially workers engaged in unionization activities.

According to the AFL-CIO's petition, even though the Dominican Government had enacted a new Labor Code, promulgated implementing regulations, and adopted a new system of Labor Courts, the country was not enforcing its labor laws vigorously enough allegedly because there were not enough "functioning" unions or not enough Collective bargaining agreements. Surely, these are not valid indicia of how well a country is affording internationally recognized worker rights to workers in the country as specified in the GSP statute. After all, barely 16 percent of American workers are unionized (a figure comparable to the number of union workers in the Dominican Republic). Does this mean that only 16 percent of American workers have their rights protected? Obviously not. In any case, this complaint was withdrawn by the AFL-CIO and the Administration issued a favorable decision on December 20, 1994.

The problem is that it is entirely too easy for an interest group to get USTR immediately to reinvestigate a country's worker rights practices after the country has been investigated once and cleared. Early reinvestigations discourage investment in a beneficiary country and thwart the country's efforts at economic development, self-sufficiency, and social change.

It must be recognized that the fact a country is under investigation and could lose its GSP or CBI benefits has a tremendous chilling effect on increased investment in the country, and while the investigation is underway, it is almost a total bar to investment.

Since mid-1989 the Dominican Republic has been subjected to three full investigations into its worker rights and intellectual property protection practices. These investigations and the attendant publicity have had measurable adverse effects on investment, and trade and tourism as well. While the Dominican private sector does not wish to address the merits of the 1989 Americas Watch petition or the 1992 MPEAA intellectual property petition, it does believe strongly that the 1993 AFL-CIO worker rights petition was designed by the AFL-CIO as a "sword" to hinder the further establishment of production-sharing operations by U.S. companies in the free zones in the Dominican Republic and elsewhere, rather than to be used as a "shield" to protect worker rights as contemplated by Congress.

The basis of this belief is that the AFL-CIO's petition presented a distorted picture of working conditions in the free zones as well as failing to describe accurately the progress of unionization in the Dominican Republic and neglecting to point out the significant steps taken by the Government of the Dominican Republic, in concert with business and labor, to ensure that the Dominican system of labor laws and regulations is modern and progressive in its outlook, and is enforced effectively and fairly throughout the country, including in the country's free zones. The significant steps taken since the previous worker rights investigation included:

- the adoption of a New Labor Code in June 1993 (and implementing regulations in October 1993),
- the establishment of significant new protections for union organizers (fuero sindical),
  - the formation of new Labor Courts,
- the formation of a tripartite (Government, business, and labor) Oversight Commission for the free zones, and
- the appointment of a new, reform-minded Minister of Labor.

The Dominican private sector believes that Dominican free zones have been specifically targeted by the AFL-CIO because of their importance in production-sharing operations rather than for any unfair or wrongful opposition to unionization activities. On this point, it is important to keep in mind that the Dominican free zones are the most important in the region except for Mexico's. There are a number of reasons for this, including the Dominican Republic's proximity to Puerto Rico and its ability to engage in "twin plant" operations.

It seems then that the 1993 AFL-CIO petition was designed to pressure the Administration into revoking the Dominican Republic's GSP and CBI eligibility merely to recapture jobs generated in the free zones in the Dominican Republic. This is a wrong-headed approach because production-sharing operations benefit U.S. workers. For example, in the textile and apparel industry, it is estimated that for every 100 jobs created in apparel manufacturing operations off-shore in free zones such as those in the Dominican Republic, 15 jobs are generated in the United States and thousands more are maintained in the United States, in the textile, transportation, and other industries.' In any event, if GSP and CBI eligibility were to be removed, the jobs in Dominican free zones would not go to the United States; they would go to Mexico and the Far East.

#### Suggested Corrections

Why then did USTR accept the AFL-CIO's June 1, 1993, petition? Although it has been speculated that the petition was accepted for reasons related to the AFL-CIO's position on the North American Free Trade Agreement, a discussion of this theory would not be useful to the Trade Subcommittee. Rather, the purpose of this statement is to suggest technical corrections

<sup>&</sup>quot;Man unusual feature of free zone exports is the large proportion that are shipped to Puerto Rico instead of the United States mainland. This reflects the existence of numerous twin plants, or more appropriately, 'complementary plants,' established in the Dominican Republic and Puerto Rico to take advantage of section 936 of the U.S. Internal Revenue Code. This section effectively exempts corporations from taxes on income from their Puerto Rican operations. They retain this exemption even if part of the processing of a good is carried out in an approved Caribbean Basin country. A minimum of 65% of the product's labor value must be added in Puerto Rico; this condition is easy to fulfill as labor in Puerto Rico is subject to the U.S. minimum wage legislation, thus relatively expensive.

The free zones of the Dominican Republic, because of their proximity to Puerto Rico, are the location of choice for establishing twin plants. More than forty U.S. companies including Westinghouse, Bristol-Myers, Hanes, and Timberland have established production sharing arrangements in the Dominican Republic for such products as electrical components, pharmaceutical products, clothing, and shoes. In the clothing industry alone, eight corporations operate twin plants that employ a total of 297 persons in Puerto Rico and 2,895 in the Dominican Republic. In this industry, however, the goods are not re-exported to Puerto Rico; the cloth is cut in Puerto Rico, then shipped to the Dominican Republic for sewing, finishing, and export directly to the United States. Larry Willmore, Export Processing in the Dominican Republic: Ownership, Linkages, and Transfer of Technology. United Nations Economic Commission for Latin America and the Caribbean, Subregional Headquarters for the Caribbean, September 14, 1993, at p. 8.

<sup>&</sup>lt;sup>7</sup> Source: American Apparel Manufacturers Association.

that would protect against the very real harm to foreign countries caused by ill-founded or premature investigations.

The Dominican private sector submits that changes need to be made regarding when a country's worker rights or intellectual property protection practices can be reinvestigated after a favorable decision has been made in a previous investigation on the same subject matter.

The problem of ill-founded or premature petitions is a result of the criteria set out in the implementing regulations. As stated above, the pertinent provisions are found in 15 C.F.R. 2007.0(b) which provides:

If the subject matter of the request has been reviewed pursuant to a previous request, the request must include <u>substantial new information</u> warranting further consideration of the issue. [Emphasis added]

While the language of the regulation appears to be well-drawn at first glance, it is open to abuse where a petition is politically motivated or otherwise designed to omit or obscure critical facts that would become appurent during the course of the investigation. Of course, investment, trade, and tourism with the investigated country will be harmed during the investigation—which sometimes is the main intent of the petitioning group. This motive may be difficult to discern with an initial petition, but a second petition into the same subject matter should be carefully vetted by the acceptance.

The Dominican private sector believes that the "substantial new information" test needs to be changed to afford more protections to beneficiary countries that have already been investigated and cleared.

The Dominican private sector has two recommendations in this area.

- 1. <u>Safe Harbor</u>. The regulations should be changed to provide a five-year "safe harbor" for countries whose worker rights or intellectual property protection practices have been investigated and a favorable decision has been made. Not only is this "safe harbor" needed for obvious reasons of fairness, it is also necessary to allow remedial measures that a country may have taken during a previous investigation, or thereafter, to develop and mature. For example, after the first investigation that covered unionization issues, the Dominican Republic developed a new Labor Code, adopted implementing regulations, and set up a completely new system of Labor Court: with specific jurisdiction over labor disputes, including unionization matters. The operation of this system should not judged too soon after it has gone into affect. It needs a resonable time to develop and function smoothly before being investigated. A five-year "safe harbor" would give remedial measures and new laws sufficient time to work and also allow new investment which can only have salutary effects.
- 2. Criteria During Safe Harbor Period. The test for instituting an investigation during lime five-year "safe harbor" period should be the existence of "c mpelling new information", a stricter standard than "substantial or information." That is, there should be no reinvestigation to be same issue for at least "compelling new information." Under this new test, there would have to be "new" information, but it could also have to be more than "substantial." It would have to be "compelling," and of such a nature that an investigation would seem imperative to any reasonable person. Failure of a for ign country to fulfill

commitments made to resolve a prior investigation would satisfy the "compelling new information" test.

#### Conclusion

The Dominican private sector believes that the program should be continued for a ten year period as was initially structured in Title V of the Trade Act of 1974. An extension this long is needed to give businesses certainty and stability in planning the continuation of their operations in BDCs. If a shorter extension is dictated by budgetary considerations, the Administration and Congress should make a clear declaration of their intent to extend the program for an extended period—ten years—at the earliest possible time so that investment in beneficiary countries will not be harmed by the uncertainty over the program's future.

The Dominican private sector strongly urges the Subcommittee to recommend or mandate the adoption of the "safe harbor" and "compelling new information" changes to the regulations for the GSP program. These changes would prevent abusive or ill-conceived petitions that have a chilling effect on investment in beneficiary countries—either deliberately or inadvertently—and thwart the very intention of Congress to foster economic development in designated beneficiary countries and thereby increase their ability to purchase U.S.—made products.

Finally, although not addressed here, the Dominican private sector supports allowing the value of U.S.-origin components to count toward the thirty-five percent "value added" requirements.

Respectfully submitted,

Robert W. Johnson ZI For ADOZONA

## FOREIGN TRADE ASSOCIATION OF SOUTHERN CALIFORNIA

900 WILSHIRE BOULEVARD Suite 1434 Los Angeles, CA 90017

# STATEMENT OF THE FOREIGN TRADE ASSOCIATION OF SOUTHERN CALIFORNIA ON SELECT FISCAL YEAR 1996 BUDGET PROPOSALS AND POSSIBLE GSP EXTENSION

This statement is submitted on behalf of the Foreign Trade Association of Southern California (FIA), a non-profit organization with over 400 members, representing a cross section of the international trade community in Southern California, in response to Release No. TR-3 of February 14, 1995, for inclusion in the printed record of the hearings held by the Subcommittee on Trade on February 27, 1995. Consideration by the Subcommittee of our written comments on the extension of the Generalized System of Preferences will be greatly appreciated.

FTA is the oldest and most widely recognized trade organization in California serving the international trade community. Its membership includes importers, exporters and manufacturers, international bankers, attorneys, customhouse brokers and freight forwarders who are leaders in the international business community in Southern California.

#### FTA SUPPORTS AN EXTENSION OF THE GSP PROGRAM:

GSP has permitted developing countries access to the world marketplace for almost twenty years by allowing exportations to industrialized countries at preferential rates of duty. GSP has also clearly been more successful in promoting trade and sustaining economic growth in developing countries than other programs, such as direct foreign aid.

In the last several years some countries, such as Taiwan, South Korea, Hong Kong, Mexico and Israel, have been graduated or removed from the U.S. GSP Program. However, it continues to be extremely important to other developing countries, such as the Philippines, Thailand, Malaysia and Indonesia, as well as to the numerous newly-emerging democracies with fragile economies which have come into existence (e.g. Russia, the countries of Eastern Europe), all of which require the type of assistance which GSP can provide to prevent them from slipping back into the totalitarian forms of government from which they escaped. FTA continues to support a strong GSP program for the above reasons and urges that Congress approve its extension for a ten year period.

Members of the U.S. international trade community are also concerned about the expiration of the U.S. GSP program because it is difficult to plan an import strategy with the knowledge that a program on which importers rely will expire in less than four months, on July 31, 1995. In fact, while all importing firms which rely on GSP will be adversely affected if it is not renewed, some small importers will become so noncompetitive that they may be forced out of business.

Congress should consider that GSP benefits both importers and consumers in this country, since U.S. industry incorporates large quantities of duty-free materials and components into finished products in the United States, often after adding substantial value to them in this country. Not only are U.S. consumer prices moderated by the use of foreign materials and components, but also U.S. workers benefit from the work generated. Expiration of the GSP program will result in component and material cost increases in some industries which are extremely important to the U.S. economy, such as housing and autos. Such increases will cause prices to rise and workers to be laid off. This would be especially hard on the economically depressed California job market, where one out of ten jobs is tied to International trade.

In the past, the existence of the GSP program has resulted in Beneficiary Developing Countries (BDC's) either protecting or improving intellectual property rights and living up to other international obligations. It is obvious that if the GSP program is not renewed, the U.S. will lose leverage over countries which have previously protected or improved these rights and which will have no future incentive for doing so.

#### FTA SUGGESTS TECHNICAL IMPROVEMENTS IN THE GSP PROGRAM:

On January 8, 1991, the Customs Service issued Treasury Decision 91-7, which, <a href="initial">initial</a> adopted a position denying GSP eligibility to sets, mixtures and composite goods containing components which are not "products of" the beneficiary developing country in which the set, mixture or composite good was manufactured. This policy leads to the absurd result that sets, mixtures and composite goods containing only one minor component sourced from a non-beneficiary developing country cannot qualify for GSP, even though that component may comprise less than one percent of the total value of the entire set, mixture or composite good.

FTA believes that this policy position adopted in T.D. 91-7 (copy enclosed) has little or no legal support. More importantly, however, the policy clearly results in denying 6SP duty-free treatment to products having large percentages of value added in Beneficiary Developing Countries, because some minor component cannot be sourced in a particular country. Such a policy is clearly contrary to the philosophy on which 6SP is based, and denies duty-free treatment to products of Beneficiary Developing Countries which would otherwise be eligible under the GSP program. For these reasons, FTA suggests that the GSP statute should be amended to permit the inclusion of minor non-BDC components in sets, mixtures and composite goods, or alternatively, that language should be included in the Report accompanying the legislation extending the GSP Program, disapproving the policy set out in T.D 91-7 and clarifying the Congressional intent to grant duty-free treatment to imported eligible articles which meet the statutory criteria of 35% BDC content, notwithstanding the presence of some foreign component.

FTA also proposes, in agreement with the views previously expressed by the Government Accounting Office, in GAO Report GAO/GED-95-9 of November 1994 (at pp. 47-50 and 70-71), allowing U.S. component input to count toward the 35% minimum value rule for GSP. Allowing such input to count toward the 35% would be a boon to U.S. domestic manufacturers, importers and consumers. Other countries, including Canada and Japan, currently make a similar allowance in their GSP programs. The inclusion of U.S. value content input would also be consistent with other trade programs, such as the Caribbean Basin initiative Act, which allow a donor country content rule.

In addition to the foregoing, FTA urges that the Committee disapprove of and reject any suggestion to entirely eliminate the current GSP rules of origin based on the concept of "substantial transformation" and to substitute therefor rules of origin like those in the North American Free Irade Agreement. The current GSP rules of origin have been in place for close to twenty years and are well understood by exporters and importers. Additionally, while in theory, rules of origin similar to those in NAFTA appear objective and simple to administer, in practice many importers and exporters are currently intentionally opting not to claim NAFTA eligibility for their goods because of difficulties in interpreting the NAFTA rules of origin and in complying with the regulations which have been promulgated thereunder.

In summary, FTA strongly supports renewal of the GSP program for a ten year period. The GSP program has historically encouraged trade with underdeveloped nations and has led to substantial economic gains for both these countries and the United States.

Your courtesy in including our statement in the printed record of the hearings held in Washington, D.C. on February 27, 1995 will be greatly appreciated.

Respectfully submitted, FOREIGN TRADE ASSOCIATION OF SOUTHERN CALIFORNIA

Version Lugar

Fermin Cuza President

#### (T.D. 91-7)

## TARIFF TREATMENT AND COUNTRY OF ORIGIN MARKING OF SETS, MIXTURES, AND COMPOSITE GOODS

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Interpretative rule.

SUMMARY: This document sets forth the position of the U.S. Customs Service regarding certain issues that have arisen concerning the tariff treatment and country of origin marking of sets, mixtures, and composite goods. Specifically, these issues are: (1) the dutiable status of such collections where a portion of the goods consists of American-made goods returned to the U.S. and/or articles assembled abroad in whole or in part of U.S. components; (2) the manner in which eligibility for the special tariff treatment programs (e.g., Generalized System of Preferences (GSP) and Caribbean Basin Initiative (CBI) is determined for sets, mixtures and composite goods; and (3) the proper application of country of origin marking requirements to such collections.

12 CUSTOMS BULLETIN AND DECISIONS, VOL. 25, NO. 2/3, JANUARY 16, 1991

## ISSUE II. Eligibility of sets, mixtures and composite goods for special tariff treatment programs.

This issue concerns the manner in which eligibility for special duty treatment under one or more of the tariff preference programs is determined for mixtures, composite goods, and sets. General Note 3(C)(i)(A), HTSUS, lists the following programs under which special tariff treatment may be provided: CBI, GSP, Automotive Products Trade Act, Agreement on Trade in Civil Aircraft, U.S.-Canada Free Trade Agreement, and U.S.-Israel Free Trade Area. General Note 3(a)(iii), HTSUS, states that special rates of duty under one or more of these programs apply to those products which are properly classified under a provision for which a special rate is indicated in the "Special" subcolumn and for which all of the legal requirements for eligibility for such program(s) have been met.

Thus, as is true in regard to all imported articles, the first step in determining whether sets or mixed or composite goods are entitled to special duty treatment under one or more of the tariff preference programs is to ascertain the proper classification of the article pursuant to the GRI's. If, for example, a particular set is classified by reference to GRI 3(b), the item of the set which imparts its essential character determines the classification of the entire set. If the "Special" subcolumn opposite the subheading under which the set is classified contains a special duty

rate, then the entire set would be entitled to that special rate, assuming compliance with the program's legal requirements. In this regard, see HRL 084709 dated August 24, 1989, involving composite goods and GSP eligibility. However, where no such duty rate is indicated for that subheading, the entire set would be ineligible for the tariff preference program, even though items in the set (not imparting the set's essential character) would be eligible if classified separately.

One of the requirements for duty-free treatment under the CBI, GSP and U.S.-Israel Free Trade Area programs is that the eligible article must satisfy the 35 percent value-content requirement. That is, the sum of the cost or value of the materials produced in the beneficiary country, plus the direct costs of processing operations performed in the beneficiary country, must equal or exceed 35 percent of the appraised value of the imported article. In determining whether this requirement has been satisfied with respect to sets or mixed or composite goods which are classifiable under one subheading pursuant to the GRI's, the includable material and direct costs must be compared to the appraised value of the entire collection of materials or components (e.g., the entire set).

Prior to August 20, 1990, the GSP program differed from the CBI and U.S.-Israel FTA programs in that the latter programs included a "product of" requirement, while the GSP did not. This requirement means that to receive duty-free treatment, an article either must be made entirely of materials originating in the beneficiary country or, if made of materials from a non-beneficiary country, those materials must be substantially transformed in the beneficiary country into a new or different article of commerce. In Madison Galleries, Ltd. v. United States, 688 F.Supp. 1544 (CIT 1988), aff'd 870 F.2d 627 (Fed. Cir. 1989), the court concluded that, under the GSP statute, it is unnecessary for an article to be a "product of" a GSP country to be eligible for duty-free treatment under that program. However, section 226 of the recently enacted Customs and Trade Act of 1990 (Public Law 101-382) includes an amendment to the GSP statute requiring an article to be a "product of" a GSP country for it to receive duty-free treatment. This amendment was effective for articles entered, or withdrawn from warehouse for consumption, on or after August 20, 1990.

Therefore, for articles entered, or withdrawn from warehouse for consumption, before August 20, 1990, the above-described difference between the GSP and the CBI and U.S.-Israel FTA remains. To illustrate how this difference impacts upon sets and mixed and composite goods, consider again the example of the hairdressing set from Mexico (a GSP country). Assume for purposes of this discussion that the comb, brush, and scissors are manufactured in Mexico from materials originating in Mexico. However, the electric hair clippers are manufactured in Taiwan (a non-GSP country), imported into Mexico, and merely packaged with the other items in the set prior to the set's direct shipment to the U.S. Pursuant to GRI 3(b), the set is classified in subheading 8510.20.0000.

HTSUS ("Hair clippers"), which is a GSP-eligible provision. The mere packaging of the Taiwanese-origin hair clippers with the other items clearly will not substantially transform the clippers into a "product of" Mexico. However, this will not, in and of itself, preclude GSP treatment for the set (assuming it was entered before August 20, 1990). Nevertheless, no costs relating to the hair clippers may be counted toward the 35 percent requirement. Therefore, to satisfy this requirement, the cost or value of the materials from which the comb, brush and scissors are made, plus the direct costs involved in manufacturing those three items, must equal or exceed 35 percent of the appraised value of the entire set (including the hair clippers).

The next question concerns whether the same hairdressing set would be entitled to CBI treatment, assuming that the comb, brush, and scissors are made in Jamaica from Jamaican materials and the hair clippers are manufactured in Taiwan and imported-into Jamaica for packaging with the other items of the set. Again, the set would be classified in subheading 8510.20.0000, HTSUS, which is a CBI-eligible provision. However, because the entire imported entity (the set) is not the "product of" Jamaica, as required by the CBI statute, neither the set nor any part thereof would be entitled to duty-free treatment under this program. As a general rule, a collection classifiable in one subheading pursuant to the GRI's will receive CBI treatment only if all of the items or components in the collection are considered "products of" the beneficiary country. The same is now true under the GSP with respect to articles entered on or after August 20, 1990.

Dated: January 8, 1991.

HARVEY B. Fox,
Director,
Office of Regulations and Rulings.



**GE Appliances** 

General Electric Company Appliance Park, Louisville, KY 40225

Louisville, Kentucky March 3, 1995

**United States Congress** House Ways and Means Committee Subcommittee on Trade 1104 Longworth Washington, DC 20515

RE: Extension of the Generalized System of Preferences (GSP)

Dear Committee Chairman

As you know, the Generalized System of Preferences (GSP) as provided for in Title V of the Trade Act of 1974, as amended (19 U.S.C. 2461 *et seq.*), is scheduled to expire on July 31, 1995. This legislation by Congress authorizes the duty-free importing of goods from designated beneficiary developing countries.

Representing the Appliances Division of the General Electric Company located in Louisville, Kentucky, I would like to stress to you the vital importance of the renewal of this program. GE Appliances, as you know, is in an extremely competitive industry where we must take advantage of every possible opportunity for reducing the cost of our purchased parts and sourced products. GSP currently permits us to enjoy I would be advantaged to the cost of our purchased parts and sourced products. duty savings of several million dollars on numerous imported products. If GSP is allowed to expire, either temporarily or permanently, it would certainly cause our costs to increase which would have a negative impact on sales which in turn could cause lost jobs and lower profits to our company.

Please use all your influence as our representative in Washington to insure that the GSP program is renewed. It is important to GE and to the citizens of Kentucky.

Yours truly,

John H. Nininger Program Manager, Import Adı

General Electric Appliances Appliance Park AP4-116 (502) 452-3923

## International Intellectual Property Alliance

1747 Pennsylvania Avenue, NW • Twelfth Floor • Washington, D.C. 20006-4604 Tel (202) 833-3198 • Fax (202) 872-0546 • E-mail: esmith@clark.net





March 13, 1995



The Honorable Philip Crane Chairman Subcommittee on Trade Committee on Ways and Means U.S. House of Representatives 1102 Longworth Washington, D.C. 20515





Re: Renewal of the Generalized System of Preferences (GSP) Program







The International Intellectual Property Alliance strongly supports the renewal of the Generalized System of Preferences (GSP) Program. A particularly important aspect of the GSP Program requires that GSP beneficiary countries provide "adequate and effective protection" for U.S. intellectual property, including copyrighted computer programs, films, videos, music, recordings, books and journals.

The International Intellectual Property Alliance ("IIPA" or "Alliance")









consists of eight trade associations, each of which, in turn, represents a significant segment of the copyright industries in the U.S. The copyright-based industries play a crucial and growing role in the U.S. economy. The core copyright industries contributed an estimated \$238.6 billion to the U.S. economy in 1993, or approximately 3.74% of the Gross Domestic Product (GDP). Employment in the core copyright industries grew some four times faster than the annual rate of the whole economy (2.6% vs. 0.7%) between 1988 and 1993. Foreign sales support an increasing proportion of U.S. jobs, with the core copyright industries compiling an estimated \$45.8 billion in foreign sales in 1993.

The U.S. copyright-based industries represent one of the few sectors of the U.S. economy that regularly contributes to a positive balance of trade. Inexpensive and accessible reproduction technologies, however, have made it easy for U.S. copyrighted works to be pirated in other countries. In addition to the worldwide problem of piracy, many foreign countries have erected market access barriers to U.S. copyrighted products.

The GSP Program has been a key trade tool to address piracy of U.S. copyrighted works. The prospect of the U.S. halting or limiting GSP privileges has provided powerful leverage on those beneficiary countries which refuse to stem illegal piracy or open their markets to U.S. copyrighted products and services. Retaining GSP benefits has figured prominently in the decisions by a number of countries (such as Singapore, Indonesia, Thailand and Cyprus) to improve their intellectual property rights (IPR) protection and enforcement efforts.

IIPA uses the GSP petition process as a means to encourage countries with high levels of piracy and market access barriers to U.S. copyrighted products to improve their copyright protection, enforcement and market access schemes. Presently under GSP IPR review before USTR are El Salvador, Honduras, Poland and Turkey. IIPA has also urged USTR to initiate GSP IPR reviews of Bulgaria, the Philippines, the Russian Federation, Bolivia and Peru this year, assuming that the GSP Program is timely renewed.

Although GSP has played a critical role over the past decade in improving protection and access for U.S. copyright-based exports, the leverage of GSP benefits is still needed to encourage some of our trading partners to open their markets and crack down on piracy. As you know, the GSP Program is fully compatible with the World Trade Organization (WTO) multilateral regime. IIPA strongly urges that the GSP Program be renewed for an extended period.

Please include this letter in the record of the February 27 hearing on GSP renewal. We appreciate this opportunity to provide these comments and look forward to providing you and the entire Subcommittee with additional information regarding the urgent need to renew this important trade program.

Respectfully submitted,

Steven J. Metalitz

Vice President and General Counsel

Before the Subcommittee on Trade Committee on Ways and Heans U. S. House of Representatives

#### STATEMENT ON EXTENSION OF THE GENERAL SYSTEM OF PREFERENCES

SUBMITTED BY
JAY MAZUR, PRESIDENT
INTERNATIONAL LADIES' GARMENT WORKERS' UNION, AFL-CIO
MARCH 13. 1995

My statement deals primarily with extension of the General System of Preferences program, which expires July 31, 1995. In stressing GSP, I am aware that the hearing also deals with the President's budget proposals for three trade-related government agencies. I do not underestimate the importance of these budgets. However, it is equally crucial that these agencies receive the proper policy guidance from the Congrass in the areas referred to below.

In turn, USTR should be required to report annually to the Congress on the status of petitions related to its statutory authority and the extent to which progress has been made or not made to resolve them. GSP is a major element of U. S. trade policy.

The GSP program is based on Title V of the Trade Act of 1974. It grants duty-free treatment to imports from developing countries under certain clearly specified conditions. Last year \$18.4 billion in imports entered duty-free under the program. Apparel is a major exception to the program. Current GSP authority expires July 31, 1995 as provided for in last year's Uruguay Round implementing legislation. Congress must now determine whether and under what conditions to extend the program.

In announcing these hearings, the Committee speaks of the program as one "which promotes economic development and creates markets for U. S. exports in developing countries through tariff preferences." It is precisely the circumstances under which this should be done in the extension of GSP that forms the basis for my testimony.

My comments are made in behalf of the 155,000 members of the International Ladies' Garment Workers' Union who are employed in the production of women's and children's apparel, accessories and related products. They live and work in more than two-thirds of the nation's fifty states.

In principle, the ILGWU supports extension of GSP. We believe that the program and its beneficiaries -- abroad and in the U. S. -- can truly gain from GSP if the enforcement parts of the Act are made stronger in any extension of the legislation. Briefly stated, I would propose:

- \* strengthening the sections of the current GSP legislation dealing with worker rights and standards and providing for their more effective enforcement by USTR. GSP should be denied to the worst offenders, while at the same time encouraging them to improve their records. As stated earlier, real steps to correct abuses should be reported annually to the Congress.
- \* tighter enforcement of the graduation requirements of the present law so that truly underdeveloped countries benefit, while the more industrialized countries are phased out of GSP benefits.
- \* continued exemption of apparel from the duty free provision of the current law.

Before elaborating on these points, I would like to make a general comment on one aspect of how GSP has been functioning. Data on GSP imports show that the benefits go to a small domestic elite in the

beneficiary countries and to the multinational companies that make use of the program.

Much of the product that enters the U. S. under GSP is assembled by Much of the product that enters the U.S. under GSP is assembled by low-wage workers in a few countries. The parts they assemble are rarely of their own making and many of the products had formerly been made here. In 1994, the top six GSP-using countries accounted for 72.1 percent of GSP imports, while the remaining 116 GSP beneficiaries, including the most underdeveloped countries, shipped 27.9 percent of total GSP imports.

With respect to my specific suggestions, Section 502(c)(7) of the Trade Act of 1974, as amended, requires that, when designating a GSP beneficiary country, the President take into account "whether or not such country has taken or is taking steps to afford workers in that country ... internationally recognized worker rights.

Such rights are clearly defined in Section 502(a)(4) of the Act, which includes:

- \*(A) the right of association; (B) the right to bargain and organize collectively;
- (C) a prohibition on the use of any form of forced or
- (c) a prominition on the use of any form of forced or compulsory labor;
  (D) a minimum age for the employment of children; and
  (E) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health."

Relatively few GSP beneficiary countries are currently in compliance with these provisions, although there is no quantitative test for these conditions in the Act. We and the AFL-CIO have repeatedly asked the United States Trade Representative to make use of its statutory responsibilities in a number of specific cases. With few exceptions, USTR has failed to do so and even the most agregious violators of the Act have been granted or continued to enjoy GSP status.

That the cited provisions can be used to help improve worker rights in GSP-favored countries has been made clear in the case of the Dominican Republic. Repeated petitions to USTR to pressure that country to agree to observe the worker's rights provisions of GSP finally led to important changes in how labor is treated.

The Dominican Republic has now begun to enforce its own labor code more effectively and, while problems still exist, unions are now allowed to function more openly than ever before and to represent the needs of workers in free trade zones. This shows clearly that USTR can use the Act to insure that workers are allowed to exercise their rights. Unfortunately, the same situation has not prevailed in the case of a number of other Caribbean countries, notably in Honduras and Guatemala, because of an apparent reluctance by USTR to use the powers entrusted to it to enforce the Act's provisions.

What is involved here, in addition to using GSP to advance democratic practices in beneficiary countries, is an important economic aspect. Talk of reciprocal market opening by countries export of U. S.-produced products to these countries if their people have the wherewithal to purchase U. S. products.

This can only occur if the income of the workers of these countries permit them to purchase U. S. products. The best way for this to occur, as history has shown, is when workers have the right to organize and to bargain collectively in their own interests. Otherwise, the policy becomes a sham that hides the perpetuation of these countries as low-wage suppliers.

With respect to apparel products, since its inception more than twenty years ago GSP has included two key provisions that exclude

most apparel products from duty-free entry. Section 503(c)(1) says that articles eligible for GSP cannot include one "within the following categories of import sensitive articles:

- ("A) textile apparel articles which are subject to textile agreements....
- "(G) any other articles which the President determines to be import-sensitive in the context of the General System of Preferences."

Under provision (A), apparel products covered by the Multifiber Arrangement (MFA) have been exempt from GSP eligibility. These include garments made of cotton wool, man-made, vegetable fibers or silk blends. While there is little doubt that apparel is highly import-sensitive, given the 65 percent import penetration level, until now use of section (G) was unnecessary. Attention must now be directed at this section because of the Uruguay Round decision to end MFA coverage in ten years.

In the past, attempts have been made to remove from GSP legislation language specifically referring to apparel. We urge your Subcommittee not to accept such changes if and when it proposes renewal of GSP. Given the high level of import penetration, this Committee should seek to preserve the remaining U. S. apparel jobs.

As my testimony makes clear, the ILGWU supports extension of GSP. We believe that this must be accompanied by tighter enforcement of its existing provisions. Graduation of countries as their economies develop should be enforced. My proposals aim to make GSP a more effective weapon to promote democracy and higher living standards in beneficiary countries. GSP benefits should be denied to countries that ignore labor rights and standards.

7300 West Boston Street Chandler, Arizona 85226-3224 Telephone (602) 961-9000 Facsimile (602) 961-1370

March 17, 1995

The Honorable Philip Crane Chairman Subcommittee on Trade Committee on Ways and Means U.S. House of Representatives 1104 Longworth House Office Building Washington, DC 20515



Dear Representative Crane:

I am writing on behalf of Inter-Tel, Incorporated to advise you of our concern that the Generalized System of Preferences (GSP) program may expire, yet again, in the very near future if the Administration does not take action soon to introduce a reauthorization proposal to Congress, and ensure its enactment. As you know, the Administration committed in the Statement of Administration Action to the Uruguay Round implementing legislation that it would introduce such a reauthorization "early in 1995." The program is scheduled to expire July 21.

I want to assure you, on behalf of Inter-Tel, Incorporated, that the GSP program remains consequential to our business. Inter-Tel designs, produces and markets business telephone systems, voice processing software, and application software on an international basis. We are a twenty-five year old company based in Chandler and currently employ over 760 people. Inter-Tel is proud to manufacture the majority of our products in Arizona. However, roughly forty percent of the products we sell are manufactured to our specifications in the Philippines, and these goods are an integral part of products which we manufacture in Arizona. If the GSP program is allowed to lapse again, our costs on products manufactured in the Philippines will increase at an estimated rate of 8½%.

Telecommunications is a rapidly changing, highly competitive industry, with market shares changing daily. This level of increase could potentially be devastating to a company of our size. With foreign competitors such as Northern Telecom, Toshiba, NEC and Panasonic it is imperative that we don't find ourselves at a serious disadvantage when the GSP program is allowed to lapse. We make recurrent use of this program, and our company's future is greatly influenced by it.

The stop-and-start nature, characterized by the GSP renewal efforts in the past, is disruptive and costly to our business. It is important to us, to our workers, and to our competitiveness that the GSP program is renewed, especially since the jobs of employees in our nationwide offices and dealerships are at stake if GSP is terminated. It is with this perspective in mind that I strongly urge you to offer renewal legislation immediately. It must not be allowed to lapse or to expire altogether.

Sincerely,

Steven G. Mihavlo

INTERVIEL, INCORPORATE

Chairman and Chief Executive Officer

Ast Quality First\_Committed To Excellence



March 17, 1995

The Honorable Philip Crane
Chairman
Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
1104 Longworth House Office Building
Washington, DC 20515

Dear Chairman Crane:

I am writing on behalf of Inter-Tel Incorporated to advise you of our concern that the Generalized System of Preferences (GSP) program may expire, yet again, in the very near future if the Administration does not take action soon to introduce a reauthorization proposal to Congress, and ensure its enactment. As you know, the Administration committed in the Statement of Administration Action to the Uruguay Round implementing legislation that it would introduce such a reauthorization "early in 1995." The program is scheduled to expire July 21.

I want to assure you, on behalf of Inter-Tel Incorporated, that the GSP program remains consequential to our business. Inter-Tel designs, produces and markets business telephone systems, wice processing software, and application software on an international basis. We are a twenty-five year old company based in Chandler and currendy employ over 760 people. Inter-Tel is proud to manufacture the majority of our products in Arizona. However, roughly forty percent of the products we sell are manufactured to our specifications in the Philippines, and these goods are an integral part of products which we manufacture in Arizona. If the GSP program is allowed to lapse again, our costs on products manufactured in the Philippines will increase at an estimated rate of 84%.

Telecommunications is a rapidly changing, highly competitive industry, with market shares changing daily. This level of increase could potentially be devastating to a company of our size. With foreign competitors such as Northern Telecom, Toshiba, NEC and Panasonic it is imperative that we don't find ourselves at a serious disadvantage when the GSP program is allowed to lapse. We make recurrent use of this program, and our company's future is greatly influenced by it.

The stop-and-start nature, characterized by the GSP renewal efforts in the past, is disruptive and costly to our business. It is important to us, to our workers, and to our competitiveness that the GSP program is renewed, especially since the jobs of Arizona employees are at stake if GSP is terminated. It is with this perspective in usual that I strongly urge you to offer renewal legislation immediately. It must not be allowed to lapse or to expire altogether.

Sincerely,

INTER-TEL, INCORPORATED

Carolys Sinclair

Secretary, Technical Support

Quality First... Drawniand in Facelience

# Statement by Richard L. Bernal Ambassador of Jamaica to the United States Submitted to the House Ways and Means Subcommittee on Trade on Renewal of the Generalized System of Preferences (GSP) March 13, 1995

The Government of Jamaica strongly supports Congressional reauthorization of the Generalized System of Preferences (GSP) this year.

The GSP program establishes important tangible and symbolic mechanisms that support trade-based growth and economic reform throughout the Caribbean and the developing world. The GSP provides developing countries market access to the United States for many non-traditional exports, generating a critical source of foreign exchange. These earnings, in turn, help finance future imports or investment in productive capacity, stimulating job creation and advancing the cause of trade liberalization.

Moreover, the US commitment to trade-based growth, through such programs as the GSP, sends an unmistakable signal of US support for this process of economic growth and trade liberalization throughout the developing world. As Caribbean countries have sought to restructure their economies to take advantage of the benefits of increased US trade links, they have undertaken policies to reduce tariff and other import barriers, privatize state-owned entities, eliminate controls on prices and exchange rates, and lessen the hand of the government in the economy. They have also undertaken to establish fair labor codes, strengthen intellectual property protection, and establish sound environmental policies. The resulting policy mix has allowed the private sector to become an engine of sustainable development and economic growth throughout the region.

Ultimately, economic growth in the Caribbean region and throughout the developing world is important for US interests. The Caribbean Basin's experience with trade-based development provides an instructive model for the United States. As the Caribbean Basin economy has developed, for example, so too has its ability to import US goods and services. From 1985 to 1994, US exports to the Caribbean have expanded by more than 125 percent. Throughout the Caribbean, such trade-based growth has led to the creation of close to 17,000 US jobs a year for the past decade. Finally, US consumers benefit from greater access to the products of the developing world.

As Congress continues to address its trade agenda this year, part of its attention must center on the mechanisms that enable foreign countries to remain healthy and vigorous trading partners of the United States. The Subcommittee has already taken the lead on this through timely consideration of the Caribbean Basin Trade Security Act, a measure that will significantly benefit US/Caribbean trade links. Another sure mechanism to help promote stronger trade-based growth throughout the Caribbean is the Generalized System of Preferences (GSP).

#### US/CBI Trade Statistics (1985 - 1994) (Millions of US Dollars)

			Annual	
	US	US	Export	Trade
<u>Year</u>	<u>Imports</u>	<b>Exports</b>	Growth	<u>Balance</u>
1985	6687	5942		-745
1986	6065	6362	7.1%	297
1987	6039	6906	8.6%	867
1988	6061	7690	11.4%	1629
1989	6637	8290	7.8%	1653
1990	7525	9569	15.4%	2044
1991	8372	10013	4.6%	1641
1992	9627	11263	12.5%	1516
1993	10378	12428	10.3%	2026
1994	11495	13441	8.1%	1946

Average Annual U.S. Export Growth: 9.5%

Note: 1994 marked the 9th straight year of U.S. trade surpluses

#### Number of US Workers Dependent on Trade with the Caribbean Basin Nations

Total	Number of
Number of	New U.S. Jobs
US Workers*	Created Per Year
118,840	
127,240	8,400
138,120	10,880
153,800	15,680
165,800	12,000
191,380	25,580
200,260	8,880
225,262	25,002
248,552	23,290
268,814	20,292
	Number of US Workers* 118,840 127,240 138,120 153,800 165,800 191,380 200,260 225,262 248,552

Average Annual Job Creation: 16,667

Source:

US Department of Commerce, US International Trade Commission

<sup>\*</sup> Assuming that \$1 billion in US exports creates 20,000 US trade-related jobs.

#### Statement Submitted on Behalf of The Lackawanna Leather Company in Support of the Timety Renewal of the United States Generalized System of Preferences ("GSP") Program

This written statement is submitted on behalf of The Lackawanna Leather Company ("Lackawanna Leather") in support of the timely renewal of the United States Generalized System of Preferences ("GSP") Program. Lackawanna Leather has utilized the GSP Program since its inception in 1975 to import leather hides into the United States from a variety of Beneficiary Developing Countries. The GSP Program has been instrumental on allowing Lackawanna Leather to import hides and to sell them to the U.S. leather furniture industry at prices which permit U.S.-made leather furniture to compete against moderately priced leather furniture imported into the United States from primarily Italy in the highly competitive, lower end of the U.S. leather furniture market.

Lackawanna Leather urges not only that the GSP Program be renewed, but that it be renewed for a minimum period of five years, and preferably for a period of fine years. The business community needs to operate in an environment of certainty in order to make rational long-term planning and investment decisions. The uncertainty over whether the GSP Program will be renewed by the United States, and whether products will be able to enter the United States duty-free under the GSP Program over the long-term, has made it very difficult to develop and adopt business plans for the future. A five to ten year renewal of the GSP Program will remove much of the uncertainty which has surrounded the GSP Program during the past two years.

Business decisions and plans are made with the expectation that goods will or will not be subject to import duties, not on the basis that at some times they will be subject to import duties, and at other times they will not be. At times, a change in the duty status of a product can go to the very heart of a business plan, and seriously impact its overall viability. The recent series of short-term (15 months or less) extensions of the GSP Program, followed by GSP "gap periods" during which goods which had been duty-free under the GSP Program were suddenly subject to import duties, has been extremely disruptive to business. Additionally, the GSP "gap periods" have presented short-term cash flow problems for Lackawanna Leather and other companies which were suddenly required to pay import duties on articles which had been duty-free. Although all import duties paid on goods entered during the GSP "gap periods" are eventually refunded to the importer, the need to pay import duties on goods generally subject to duty-free treatment created short-term liquidity problems.

For this reason, Lackawanna Leather not only urges a long-term renewal of the GSP Program, but also a timely renewal of the GSP Program, to prevent the creation of any further GSP "gap periods" during which legal authority to permit otherwise GSP eligible goods to enter into the United States duty-free lapses. The disruption to business resulting from past GSP "gap periods" should not be underestimated. The avoidance of any further GSP "gap periods" should be a major goal both for Congress and the Administration in enacting GSP renewal legislation this year.

Although the GSP Program was initially enacted primarily to promote the economic development efforts of developing countries, over the past two decades it has also become very important to U.S. businesses. Lackawanna Leather's awareness of the importance of the GSP Program to its own operations was heightened by the loss of GSP eligibility in 1991 for buffalo leather from Thailand. Lackawanna Leather had spent a great deal of time and money in the late 1980's developing a market for buffalo leather as a low-cost upholstery for use on moderately-priced leather furniture (as an alternative to the more expensive cow leather or less expensive vinyl). U.S. leather furniture manufacturers used buffalo leather in an effort to combat the significant surge in imports of moderately-priced leather furniture from Italy.

Thailand was the only country from which buffalo hides were available in commercial quantities in the early 1990's, and the loss of GSP eligibility for this product, and imposition of the 3.7% duty rate, immediately minimized the competitive price advantage provided to U.S. furniture manufacturers by buffalo leather. While Lackawanna Leather initially absorbed this duty cost (3.7%), it eventually had to pass it along to its customers, who would then pass it along to U.S. consumers. Lackawanna Leather attempted to restore buffalo leather from Thailand to GSP eligibility in the 1992 GSP Annual Product Review. This effort did not succeed, despite the showing made by Lackawanna Leather that the continued loss of GSP eligibility for this product not only adversely affected its own operations, but also those of many U.S. producers of moderately-priced leather furniture, who relied on buffalo leather from Thailand to compete with imports from Italy. Arguments in support of the effort to restore buffalo leather from Thailand to GSP eligibility, and the evidence showing that the continued loss of GSP eligibility for buffalo leather from Thailand not only adversely affect Lackawanna Leather and its 600 plus employees in North Carolina and Nebraska, but also the thousands of employees employed by its customers, were deemed not legally cognizable by the Administration as the effect of the loss of GSP eligibility on a U.S. businesses or industries who relied on the Program was not a factor listed in the GSP law to be considered by the President in making a GSP product removal or product add determinations.

Citing continued intellectual property concerns with Thailand, the petition filed by Lackawanna Leather to restore GSP eligibility to buffalo leather from Thailand was denied. While Lackawanna Leather certainly applauds and supports this Administration's and past Administration's efforts to improve intellectual property protection in Thailand and in other Beneficiary Developing Countries, it questions why it, and its customers in the United States, were the ones forced to pay the price for this effort.

Lackawanna Leather has learned a number of lessons from its experience with buffalo leather from Thailand. The first is that the GSP Program is extremely important to its economic and financial well-being. The loss of GSP eligibility for only one product line caused the Company significant economic and financial hardship. Should the GSP Program not be renewed, the loss of duty-free status for all of its products which are otherwise GSP eligible would severely affect the financial well-being of the Company.

Second, Lackawanna Leather learned that the GSP Program has evolved significantly since its creation. The Program was initially supposed to be a unitateral extension of benefits by the United States to developing countries to encourage the development of economic infrastructure by providing a competitive advantage to products from Beneficiary Developing Countries shipped to the United States. Over the past 20 years, however, the Program has evolved into a tool of U.S. trade policy and has been used to force Beneficiary Developing Countries to make changes in their intellectual property worker rights regimes in order to maintain their Beneficiary Development Country status. While the goals of U.S. policy in these areas are laudable, under current law, the companies or industries in the United States who often pay the price for these efforts are often unrelated to those who would benefit most from such efforts. This is exactly what happened to Lackawanna Leather, and the U.S. leather furniture industry, in the case of buffalo leather from Thailand.

As the Administration and Congress consider amendments to the GSP law, Lackawanna Leather would strongly suggest that a provision be added to the law which would allow the Administration to take into account the impact that the removal of GSP benefits, or the addition of GSP benefits (at least in cases where a request has been made to restore GSP eligibility to a product which had previously lost its GSP eligibility), may have on a U.S. industry and its employees. Especially in the former case, where U.S. businesses may have been built around the GSP eligibility of the goods that they may import, such concerns are not unreasonable. To deny GSP benefits to U.S. companies because of intellectual property or worker rights concerns in a Beneficiary Developing Country can unjustly punish U.S. businesses and workers who are not responsible for a Beneficiary Developing Country's intellectual property, worker rights, or other objectional practices and policies, and who would not benefit from any improvements in such policies. While

understanding that the purpose of the GSP Program is not to provide benefits to U.S. businesses, the Program should not be administered in a way which is detrimental (or blind) to the interests of U.S. businesses and workers. As discussed earlier, the GSP Program has evolved significantly from its origins, and no longer has as its primary purpose the extension of unilateral trade-benefits to developing countries. Given the other purposes for which the GSP Program is now being utilized, the GSP law should be amended to allow the Administration to take into the account the effect of any actions with respect to the termination or restoration of GSP eligibility on U.S. businesses and workers who have benefitted from the GSP Program.

For all the reasons discussed above, Lackawanna Leather strongly urges that the Congress enact legislation renewing the GSP Program for a period of ten years (or at a minimum, for no less than five years). Lackawanna Leather also urges that the legislation extending or renewing the GSP Program be enacted by Congress, and signed by the President, prior to July 31, 1995, the date on which the current GSP Program is to expire. The avoidance of another GSP "gap period" should be a major objective of both the Administration and the Congress. Finally, we would urge that legal authority be given to the Administration to take into account the affect of the termination of GSP benefits, or the failure to restore GSP benefits, on U.S. businesses and U.S. workers who have or would benefit from the GSP Program.

Your consideration of these points is greatly appreciated by the Lackawanna Leather Company, and its 600 plus employees in North Carolina and Nebraska.

TELECOPIERS

LAW OFFICES

STEWART AND STEWART 808 SEVENTEENTH STREET, N.W. WASHINGTON, D. C. 20006-3910

TELEPHONE (202) 785-4185 TELEX 89-533

#### Before The

Subcommittee on Trade Committee on Ways and Means United States House of Representatives

#### SELECT FISCAL YEAR 1996 BUDGET PROPOSALS AND POSSIBLE GSP EXTENSION

Written Comments of Libbey Inc.

March 13, 1994

These comments on possible extension of the Generalized System of Preferences (GSP) are filed on behalf of Libbey Inc., a U.S. producer of glassware products. Imported glassware like and directly competitive with the U.S. products (e.g., drinking glasses and stemware, dishes, bowls, cups, saucers, stovetop ware and overnware, vases, ashtrays, candle holders, canisters, salt and pepper shakers, figurines) are classified under various subheadings of heading 7013 of the Harmonized Tariff Schedules of the United States (HTS).

The U.S. glassware sector has long been recognized as highly import sensitive. Congress, accordingly, excluded "import-sensitive semimanufactured and manufactured glass products" from GSP eligibility from the outset. 19 U.S.C. § 2463(cx[1]KF), section 503(cx[1]KF) of the Trade Act of 1974, Pub. L. 93-618, 88 Stat. 2070 (emphasis added); see, also, Statement of the Glass Workers' Protective Leagues of Illinois-Wisconsin, Indiana, Ohio, Pennsylvania, and West Virginia in The Trade Reform Act of 1973: Hearings Before the Senate Committee on Finance on H.R. 10710, 93d Cong., 2d Sess., Part 6 at 2349 (1974).

Since enactment of the GSP, the condition of the U.S. industry has worsened. The following list of factors confronting the U.S. industry combine to highlight the industry's growing import sensitivity:

- extensive plant closings and reduction of employment in the pressed and blown glass sector by about 16,000 workers since 1978 (Attachment 2);
- stagnant U.S. glassware demand and consumption (Attachment 3);
- reductions of total U.S. producer production and shipments (id.), and depression of U.S. prices;
- imports from both GSP and non-GSP countries surging and capturing an increasing share of stagnant U.S. consumption (penetration presently in excess of 40%) (Attachments 3 and 4);
- an increased range of countries whose exports of glassware to the United States are or will become duty-free under the Caribbean Basin Economic Recovery Act (CBI), U.S.-Israel FTA, U.S.-Canada FTA, NAFTA, and the Andean Initiative;

- existing import sensitivity is shown by pre-Uruguay Round tariffs on glassware as high as 38%, when the U.S. average tariff was about 4%;
- increased imports and increased U.S. producer sensitivity will follow the Uruguay Round's 25% cut of all U.S. glassware tariffs over 15%, the higher (or "peak") tariffs reflecting products where the industry has the greatest import sensitivity;
- general world oversupply of glassware and continuous additions of production capacity by other industrialized and less-industrialized countries despite this oversupply;
- other countries' producers' focus upon the United States as the target for their glassware exports, the U.S. exceeding other countries' glassware imports by any measure (i.e., in absolute terms, on a per capita basis, and even when adjusted to take account of development level differences).

#### Possible Legislative Corrections of Present Approach to GSP Petitions on Glassware

Notwithstanding the condition of the industry and the intent of Congress that import-sensitive semimanufactured and manufactured glass products not be GSP eligible, U.S. glassware manufacturers and their workers have had to respond to a barrage of petitions requesting GSP treatment for glassware articles: every eight-digit item under HTS heading 7013 has been the subject of at least one petition since 1989; several have been the subject of petitions in four separate reviews. See Attachment 1 (summary of petitions under HTS 7013 since 1989).

Petitions are allowed because administrations have interpreted the words "import-sensitive" at part (F) of 19 U.S.C. § 2463(c)(1) as requiring a case-by-case finding of import sensitivity before a GSP request will be denied. That, however, is not a reasonable interpretation. The sponsors of the amendment that added glass products to the list of exclusions at section 2463 clearly understood that "semimanufactured and manufactured glass products" are import sensitive. The legislative history suggests that the words "import-sensitive," which were added in conference, were not intended to limit the types of glass products to be excluded but to describe the condition of the U.S. industry. See, e.g., 120 Cong. Rec. S. 21396-98 (daily ed. Dec. 13, 1974); H.R. Rep. No. 1644, 93d Cong., 2d. Sess. at 53 (Amendment 411)(1974); 120 Cong. Rec. S 22508 (daily ed. Dec. 20, 1974).

Moreover, the same "import-sensitive" inquiry is required by a separate provision of section 2463(c)(1) for all products; i.e., any article found to be import sensitive in the GSP context is to be denied GSP designation. 19 U.S.C. § 2463(c)(1)(G). With that general requirement, no purpose is served by the exclusion of glass products from GSP only when the same, general, import-sensitivity inquiry applicable to all products is met. That is, interpreting the words "import-sensitive" at 19 U.S.C. § 2463(c)(1)(F) to require the case-by-case import sensitivity inquiry already required for all products renders the exclusion for glass products meaningless; it is at loggesheads with the rule of statutory construction that Congress intends to give meaning to each part of a statutory provision.

One legislative solution in this regard would be to achieve the original intent of Congress to exclude glass products from GSP treatment by deleting the words "import-sensitive" which presently precede the words "semimanufactured and manufactured glass products" in the exclusion at 19 U.S.C. § 2463(cXIXF). From a budgetary perspective, that approach would lead to increased revenues through imposition of duties on the few products under HTS 7013 that are presently designated GSP.

It would assure no further loss of revenues through GSP designation of additional glassware products and would also eliminate administrative/personnel costs associated with the government's interagency administration of GSP petitions on glassware. From the industry's perspective, it will remove the costly distraction from achieving domestic and international competitiveness.

As an alternative, 19 U.S.C. § 2463(cX1MF) could be amended by inserting a definition of "import-sensitive" as including products on which petitions have been previously rejected or denied, acknowledging that the rejection/denial represents a finding of import sensitivity. That approach would continue the GSP designation of articles that are already GSP while preventing addition of ones already found to be import sensitive.

#### Continue Exclusion of Glass Also for Least Developed Developing Countries

The proposal put forth by the Administration on GSP renewal when Uruguay Round implementation was at issue would permit giving GSP benefits for a particular product to least developed developing countries (LDDCs) only. Sec. 3(a)(4) of Administration Proposal on Renewal of the Generalized System of Preferences (GSP) Program (May 16, 1994). This Subcommittee's draft proposal of June 29, 1994, adopted that approach as well. Uruguay Round Trade Agreements Draft Implementing Proposal. As Amended and Recommended by The Subcommittee on Trade, Committee on Ways and Means (June 29, 1994) at 185. Although the substantive changes of those proposals were not made part of the law when GSP was extended unchanged through July 31, 1995, they likely will become the basis for draft GSP legislation this year.

Libbey's concern with those drafts is that they would prevent GSP designation for the LDDCs only of certain of the products presently exempted under § 2463(c)(1); "import-sensitive semimanufactured and manufactured glass products" is not one of the excepted products. The LDDC exemption in those drafts would be limited to textiles and apparel, watches, and footwear and related articles; i.e. those specified in subparagraphs (A), (B) and (E) of 19 U.S.C. § 2463(c)(1). Libbey requests that "import-sensitive semimanufactured and manufactured glass products," subparagraphs (F) of 19 U.S.C. § 2463(c)(1), also be exempted from GSP designation in the LDDC context. Although the LDDCs do not presently account for a significant portion of total imports, major international producers can easily establish facilities in other countries when there is a reason to do so. The potential savings of tariffs as high as 38% would provide that incentive. Moreover, this would be only one among many programs under which glassware enters, or will in the future enter, the United States free of duties (e.g., NAFTA, U.S.-Israel. CBI, Andean) or under which tariffs will be reduced (Uruguay Round). For an industry as import sensitive as glassware, each new program granting duty-free or reduced-duty access to this market adds to the cumulative dislocating effects already being felt. Accordingly, glass products should continue to be excluded from GSP designation; an exception should not be made for the LDDCs.

### Inclusion of the regulation's three-year rule in the statute itself and its extension to instances in which the President has declined to initiate a review

Under USTR's current regulations, an interested party may submit a request to designate additional articles as GSP eligible, "provided that the article has not been

accepted for review within the three preceding calendar years." 19 CFR 2007.0(a)(1). Thus, where a party petitions to add a product to the list of eligible products and the petition is denied, no new petition regarding the same product may be accepted for review for a period of three years. The three-year rule was established to prevent needless rearguing of petitions where a product has already been found to be import-sensitive. See, e.g., Possible Renewal of the Generalized System of Preferences-Part 1, Hearings Before the Subcommittee on Trade of the Committee on Ways and Means, 98th Cong., 1st. Sess., Serial 46 at 140 (Statement of James J. Whitsett, President, Anti-Friction Bearing Manufacturers Association, Inc.) (1984); Possible Renewal of the Generalized System of Preferences-Part 2, Hearing Before the Subcommittee on Trade of the House Committee on Ways and Means, Serial 59 (February 8 and 9, 1984) at 8 (Statement of Bobby F. McKown).

In practice, however, USTR has, in the context of the "special" GSP review for Central and Eastern Europe, waived the three-year requirement and accepted for review petitions that had been rejected within the three-year time period. 56 Fed. Reg. 37,758 (August 8, 1991).

In addition, in its current form, the three-year rule does not appear to apply where a petition was, for whatever reason, rejected <u>before</u> review. The rationale of the three-year rule applies equally where a petition was rejected prior to review, provided the rejection was for reasons other than a technical deficiency in the petition. Thus, where a petition was rejected prior to review because of the clearly import-sensitive nature of the product, new argument on the same issue should not occur before three years have elapsed.

To achieve this, Libbey proposes that the statute incorporate an amended version of the present three year rule (modeled, with amendments underscored, on 19 C.F.R. 2007.0(a)(1) and 19 CFR 2007.1(a)(4)) as follows:

An interested party may submit a request (1) that additional articles be designated as eligible for GSP duty-free treatment, provided that the article has not been accepted for review or rejected prior to review for reasons other than a technical deficiency in the petition within the three preceding calendar years;

If it is a request for a product addition, the previous request must not have been formally accepted for review or rejected prior to review for reasons other than a technical deficiency in the petition within the preceding three calendar year period ....

Although the administration indicates that it intends through regulation to cause reviews for product additions to occur only every third year, it would be prudent to include the three-year rule in the statute itself, and to indicate in the statute or related reports (e.g., statement of administrative action) that exceptions to the three year rule will not occur.

Of course, the exclusion of glass products from GSP eligibility would make codification of the three year rule irrelevant from Libbey's perspective.

#### 4. Conclusion

Notwithstanding the prohibition against designating "import-sensitive semimanufactured and manufactured glass products" as GSP eligible, the U.S. glassware industry and its workers have been repeatedly put to the cost and burden of responding to foreign entities' petitions requesting that individual glassware articles be designated GSP

eligible. Each glassware tariff item under heading 7013 of the Harmonized Tariff Schedules of the United States (HTS) which is not designated GSP eligible has been the subject of at least one GSP petition that was rejected or denied since 1989. Against that background, permitting new GSP petitions on glassware would be unfair to the U.S. industry and its workers. It would also be unfair to partially eliminate the exclusion by limiting the number of GSP beneficiary countries to which it would apply. Accordingly, Libbey asks:

- (1) that the statutory exclusion of "import-sensitive semimanufactured and manufactured glass products" from GSP eligibility be amended, either: (a) by deleting the words "import-sensitive" which presently precede "semimanufactured and manufactured glass products" at 19 U.S.C. § 2463(c)(1)(F) to more clearly reflect the original intent of Congress to exclude glass products from GSP designation, or (b) by adding a definition of the term "import-sensitive," as it appears at section 2463(c)(1)(F), to include "glass products not presently designated GSP eligible which have been since 1989 the subject of one or more rejected or denied petitions for additions to the list of GSP eligible products";
- (2) that no countries be exempted from the exclusion of glass from GSP eligibility (i.e., that the glass product exclusion also be applied to LDDCs); and
- (3) that the three year rule be added to the statute as part of the renewal process, that it not be subject to exception, and that the same significance attach to a refusal to initiate a review as attaches to a denial of a petition which is reviewed.

Respectfully submitted,

STEWART AND STEWART Special Counsel for Libbey Inc.

Terence P. Stewart Charles A. St. Charles

ATTACHMENT 1

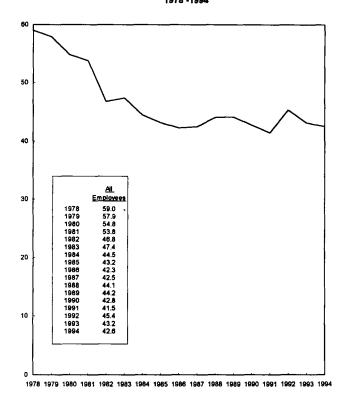
GSP PETITIONS ON GLASSWARE CLASSIFIABLE UNDER HTS 7013 1869 - 1982

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#### ATTACHMENT 2

#### Employment in the Pressed and Blown Glass Industry SIC 3229 1978 -1994



Source:

Employment, Hours, and Earnings, U.S. 1909-1990, Vol. 1; US Dept of Labor at 20, March 1991 Supplement to Employment and Earnings, at pp 119-121; July 1991; Data for 1992, 1993 from March 93 and 94 EH&E respectively. Data for 1994 compiled from March, June, August, October, December 1994, and February 1995 EH&E.

#### ATTACHMENT 3A

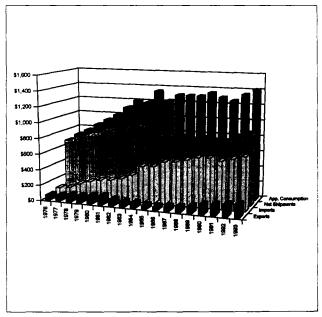
## In Current Dollars Glasswere Classifiable Under HTS 7013 and TSUS 546: Apparent Consumption, Imports, and Imports as a Percentage of Apparent Consumption (altitude of U.S. Joshan)

	A Domestic Producers' Shipments From MA32E	Interplant Transfers From MA32E	© Net Domestic Producers' Shipments (A+B)	Q Exports	E	U.S. Cons. (C-D+E)	Imports % of Tabel U.S. Cons.
1976	\$730	\$55	\$675	\$64	\$94	\$705	13.3%
1977	\$765	\$55	\$729	\$69	\$113	8773	14.6%
1978	\$865	\$86	\$779	\$90	\$168	\$857	19.6%
1979	\$912	\$106	\$806	\$89	\$210	8927	22.6%
1980	\$1,030	\$168	\$864	\$103	\$240	\$1,001	24.0%
1981	\$1,150	\$180	\$970	\$114	\$252	\$1,108	22.7%
1982	\$1,152	\$143	\$1,009	\$83	\$282	\$1,209	23.4%
1963	\$1,183	\$272	\$912	\$63	\$339	\$1,188	28.5%
1984	\$1,307	\$361	\$946	\$85	\$463	\$1,343	34.5%
1985	\$1,215	\$415	\$800	\$49	\$472	\$1,223	38.6%
1986	\$1,278	\$465	\$813	\$46	\$537	\$1,304	41.2%
1987	\$1,264	\$453	\$611	\$59	\$550	\$1,301	42.3%
1988	\$1,362	\$575	\$787	\$67	\$581	\$1,301	44.7%
1989	\$1,360	\$548	\$811	\$86	\$622	\$1,348	46.2%
1990	\$1,397	\$608	\$791	\$123	\$627	\$1,295	48.4%
1991	\$1,452	\$659	\$792	\$137	\$601	\$1,256	47.8%
1992	\$1,575	\$718	\$858	\$151	\$635	\$1,342	47.3%
1993	\$1,600	\$894	\$906	\$168	\$672	\$1,411	47.7%

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Devices Contracts, Interpret transport, and reports are two Department of Commerce, 1977-1980 Courset instantial Reports for Commerce, instantial Commerce, and the Commerce and Commerce a

Hote: Date for 1998-93 includes date for Classic Cementos, HTE 7013.10, which was not included in the procedure TBUS provision (TBUS 649) and Permiter in the date for 1976 - 1994



#### ATTACHMENT 3B

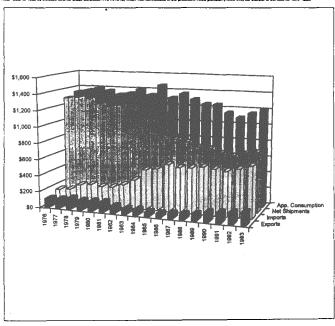
## In Constant 1987 Dollars Glassware Classifiable Under HTS 7013 and TSUS 546: Apparent Consumption, Imports, and Imports as a Percentage of Apparent Consumption (Allitons of U.S. Oollers)

	A Domestic Producers' Shipmente From MA32E	interplant Transfers From MA32E	© Net Domestic Producers' Shipments (A - B)	₽ Exports	E	U.S. Cons. [C-D+E]	Imports % of Total U.S. Cons.
1976	\$1,396	\$105	\$1,291	\$104	\$155	\$1,342	11.6%
1977	\$1,404	\$99	\$1,305	\$107	\$170	\$1,307	12.4%
1978	\$1,435	\$143	\$1,292	\$130	\$238	\$1,399	17.0%
1979	\$1,392	\$162	\$1,231	\$114	\$252	\$1,389	18.4%
1980	\$1,437	\$232	\$1,205	\$118	\$237	\$1,324	17.9%
1981	\$1,457	\$228	\$1,229	\$122	\$241	\$1,347	17.9%
1982	\$1,374	\$170	\$1,204	\$87	\$283	\$1,400	20.2%
1983	\$1,357	\$312	\$1,045	\$65	\$353	\$1,334	26.5%
1984	\$1,436	\$397	\$1,039	\$66	\$489	\$1,482	33.5%
1985	\$1,287	\$440	\$847	\$50	\$513	\$1,311	39.2%
1986	\$1,318	\$480	\$839	\$47	\$576	\$1,368	42.1%
1987	\$1,264	\$453	\$811	\$59	8550	\$1,301	42.3%
1988	\$1,311	\$553	\$757	364	8553	\$1,247	44.4%
1989	\$1,253	\$506	\$748	380	\$577	\$1,245	48.4%
1990	\$1,233	\$535	\$698	\$112	\$584	\$1,150	49.0%
1991	\$1,235	\$5 <del>8</del> 0	\$674	\$124	\$544	\$1,095	49.7%
1992	\$1,303	\$593	\$710	\$137	\$581	\$1,153	50.3%
1993	\$1,298	\$562	\$734	\$154	\$628	\$1,208	52.0%

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d on 1994 Valu	_					
	•					
1992	1990	1991	1892	1993	1994	% Cng 88-8
				-		
\$112,621	\$120,374	\$110,275	\$97,863	\$101,407	\$115,475	2.53
\$68,856	\$84,772	\$81,500	\$82,385	\$73,934	\$84,076	22.10
V. 0,0—		\$51,411	·	\$55,675		-11.37
						40.48
•						111,31° 606,47°
• ,	V-,					32.78
\$21,174	\$18,771	\$18,672				29.90
	\$28,951		\$32,584		\$26,639	4.48
\$14,337	\$13,000	\$10,085	\$10,268	\$12,550	\$12,160	-15.18
\$6,071	\$5,027	\$4,614	\$6,316	\$6,576	\$12,105	99.39
\$3,593	\$3,626	\$3,797	\$8,106	\$8,938	\$11,269	213,64
\$8,660	\$9,064	\$7,209	\$8,232	\$8,421	\$9,000	11,74
						-11.25
		*-,	• -,			-40.00 581.21
•						123,63
						-6.04
\$1,656		\$1,399	\$1,152	\$1,774	\$1,239	-25.17
\$654	\$440	\$3,172	\$718	\$629	\$1,034	56.25
\$1,852	\$718	\$1,119	\$1,121	3891	3859	-53.64
\$170	\$182	\$207	\$178	\$102	\$365	109.661
\$640	\$457	\$387	\$345	\$383	\$89	-86.13
				•	• • • •	-55.09*
\$85	\$76	140	\$408	\$70		-87.78
					• • • •	
en.	67	91.65	100	90		
#0 #0			*	25	83	
\$21	38		\$11	\$15	<b>\$3</b>	-86.49
					<b>\$3</b>	
\$4	\$27	\$0	\$3	\$23	\$2	-35.60
\$0	\$0	\$2	\$0	\$2	\$2	
<b>20</b>	<b>\$0</b>	\$39	\$0	\$0		
\$0	\$28	80	90	\$0		
2470 440	3444 393	1429.344	3441,899	8462.526	\$626,634	20.66
					82.61%	
		******				
					<del></del>	
\$59	\$36	\$442	\$311	\$226	\$216	262.84
\$0	80	80	\$0	\$450	-	
					\$1	
			•••			
\$25	20	30	30	*0		
						191.68
\$0	\$0	\$0	\$10,770	\$26,633	\$23,961	
\$0	20	80	\$0	\$12,622	\$12,628	
	\$112,621 \$00,000 \$77,000 \$15,000 \$15,000 \$24,976 \$21,976 \$21,976 \$24,976 \$24,976 \$34,977 \$3,593 \$3,600 \$35,500 \$35,	\$112,521 \$120,374 \$88,856 \$34,772 \$73,062 \$354,0772 \$75,065 \$352,413 \$15,565 \$15,780 \$4,936 \$52,2139 \$21,174 \$16,774 \$16,774 \$16,774 \$16,774 \$16,774 \$15,027 \$33,590 \$33,626 \$36,640 \$7,003 \$35,532 \$35,046 \$35,532 \$35,046 \$35,532 \$35,046 \$31,575 \$11,175 \$31,577 \$11,175 \$31,577 \$11,175 \$31,577	\$112,521 \$120,374 \$110,275 \$88,856 \$384,772 \$41,500 \$73,062 \$55,106 \$61,411 \$27,586 \$32,413 \$31,612 \$15,565 \$15,780 \$16,567 \$4,936 \$82,725 \$38,847 \$24,976 \$22,139 \$22,942 \$21,174 \$18,777 \$18,677 \$27,886 \$20,951 \$26,776 \$14,537 \$13,000 \$10,065 \$4,507 \$23,139 \$3,000 \$3,502 \$3,626 \$3,797 \$35,600 \$43,626 \$3,797 \$35,600 \$3,600 \$43,600 \$3,500 \$43,626 \$3,797 \$35,500 \$10,065 \$35,500 \$10,065 \$35,500 \$10,065 \$35,500 \$10,065 \$35,500 \$10,065 \$35,500 \$10,065 \$35,500 \$10,065 \$31,600 \$10,065 \$31,600 \$10,	\$112,621 \$120,374 \$110,275 \$97,863 \$80,856 \$84,772 \$81,500 \$42,365 \$73,062 \$95,100 \$451,411 \$40,261 \$27,586 \$32,413 \$31,612 \$34,619 \$16,565 \$15,790 \$16,567 \$20,914 \$4,936 \$87,725 \$28,847 \$15,369 \$24,476 \$22,139 \$22,942 \$34,337 \$21,174 \$16,777 \$16,872 \$21,872 \$27,886 \$25,951 \$22,776 \$32,584 \$14,337 \$13,000 \$10,005 \$10,286 \$40,931 \$3,626 \$3,767 \$40,106 \$35,532 \$4,061 \$40,305 \$36,532 \$3,006 \$40,005 \$40,005 \$36,532 \$2,599 \$31,366 \$37,933 \$3,626 \$37,977 \$40,106 \$35,532 \$2,599 \$31,366 \$35,532 \$2,599 \$31,366 \$31,575 \$11,175 \$41,474 \$2,907 \$3,544 \$5,574 \$31,579 \$11,575 \$1,155 \$1,175 \$11,474 \$2,907 \$3,544 \$5,574 \$31,599 \$31,352 \$11,575 \$11,175 \$11,474 \$2,907 \$3,544 \$5,574 \$31,599 \$31,352 \$11,575 \$11,175 \$11,175 \$11,474 \$2,907 \$3,544 \$5,574 \$31,599 \$31,352 \$11,575 \$11,175 \$11,175 \$11,474 \$2,907 \$3,544 \$5,574 \$31,599 \$31,352 \$11,575 \$11,595 \$15,595 \$13,599 \$31,152 \$11,575 \$11,595 \$15,595 \$13,599 \$31,152 \$11,675 \$11,675 \$11,175 \$11,	\$112,521 \$120,374 \$110,275 \$97,863 \$101,407 \$98,866 \$94,772 \$21,500 \$92,365 \$73,854 \$73,025 \$357,009 \$357,002 \$357,009 \$351,451 \$34,619 \$32,000 \$15,565 \$15,780 \$15,567 \$20,014 \$23,255 \$24,976 \$23,139 \$20,942 \$34,877 \$22,224 \$24,976 \$23,139 \$20,942 \$34,877 \$22,224 \$24,976 \$23,139 \$16,877 \$21,677 \$22,584 \$29,423 \$16,777 \$22,584 \$29,423 \$16,377 \$32,584 \$29,423 \$31,500 \$310,266 \$112,500 \$40,771 \$35,254 \$29,423 \$31,500 \$310,266 \$112,550 \$31,300 \$30,005 \$100,266 \$122,500 \$3,500 \$30,000 \$	\$112,021 \$120,374 \$110,275 \$07,863 \$101,407 \$115,475 380,866 \$84,772 \$151,500 \$42,365 \$73,934 \$84,076 \$373,002 \$851,000 \$81,411 \$44,261 \$35,675 \$84,782 \$375,968 \$32,413 \$31,612 \$34,619 \$32,000 \$38,783 \$15,565 \$15,760 \$16,567 \$20,914 \$20,956 \$35,000 \$4,836 \$61,725 \$38,447 \$153,366 \$22,224 \$354,509 \$24,976 \$23,139 \$20,942 \$34,337 \$37,512 \$33,489 \$24,174 \$16,771 \$18,672 \$22,1672 \$24,230 \$327,504 \$27,808 \$28,651 \$20,776 \$32,258 \$29,423 \$27,504 \$27,808 \$28,651 \$20,776 \$32,258 \$29,423 \$26,539 \$14,337 \$13,000 \$10,005 \$10,266 \$12,550 \$12,160 \$3,500 \$3,626 \$3,797 \$4,614 \$4,316 \$43,316 \$36,576 \$12,105 \$3,560 \$3,560 \$3,000 \$3,800 \$3,800 \$8,637 \$12,105 \$3,560 \$3,560 \$3,000 \$3,800 \$3,800 \$8,534 \$4,434 \$3,969 \$35,522 \$5,068 \$20,000 \$3,800 \$3,800 \$8,534 \$4,434 \$3,969 \$35,523 \$3,600 \$3,000 \$3,800 \$3,800 \$3,534 \$4,334 \$3,969 \$35,523 \$3,600 \$3,000 \$3,800 \$3,800 \$3,534 \$4,334 \$3,969 \$35,523 \$1,056 \$3,000 \$3,800 \$3,800 \$3,534 \$4,334 \$3,969 \$35,524 \$3,600 \$3,000 \$3,800 \$3,800 \$3,534 \$4,334 \$3,969 \$35,525 \$1,500 \$3,000 \$3,800 \$3,800 \$3,534 \$4,334 \$3,969 \$35,525 \$1,500 \$3,000 \$3,800 \$3,800 \$3,534 \$4,334 \$3,969 \$35,524 \$3,600 \$3,000 \$3,800 \$3,800 \$3,534 \$4,334 \$3,969 \$35,525 \$1,500 \$3,300 \$

Source: U.S. Dept of Commerce, Bureau of Census. Excludes data for items classified under HTS 7013.10 - Glass Ceramics.

	1991	1000	1991	1802	1893	1994	% Cng 89-8-
ROMANIA	\$7,086	\$5,113	\$3,882	\$2,035	\$1,798	\$5,145	-27.399
NDONESIA	\$2,146	\$3,261	\$4,092	\$8,446	\$7,320	\$5,039	134.849
TURKEY	\$7,706	\$6,942	\$5,268	\$5,313	\$5,704	\$4,931	-36.019
THAILAND	\$1,915	\$2,153	\$1,885	\$1,964	\$2,577	\$3,102	62.001
MALAYSIA	\$573	9613	\$1,040	\$2,568	\$2,755	\$3,030	430 139
CROATIA	30	\$0	\$1,540	\$1,386	\$2,742	\$2,491	430.131
SLOVAKIA	<b>50</b>	** **	\$0	\$1,480	81,971	\$2,001	
BRAZIL	\$1,817	\$1,890	\$1,915	\$1,238	\$1,622	\$2,001 \$1,675	3.189
DOMINICAN REPUBLIC	\$0	\$1,090	\$1,813 \$13	\$1,230 \$230	31,622 3800	4.,	3.187
PHILIPPINES	<b>50</b>	95	15	385	\$736	\$1,261 \$632	
FGYPT	\$19	126	\$253	2040 2040			
EGTPT BOSNIA-HERCEGOVINA	319				\$341	\$803	4135,199
		20	\$0	\$0	\$17	\$670	
NDIA	\$61	\$81	\$75	\$117	\$287	\$600	887.649
ARGENTINA	\$938	\$1,372	\$575	\$241	\$138	\$463	-50.679
SRAEL	\$455	\$399	\$180	\$219	\$275	\$393	-13.681
COLOMBIA	\$335	\$217	\$198	\$149	\$292	8382	14.019
RUSSIA	\$746	\$678	\$308	\$403	\$398	\$352	-52,799
BELARUS	\$0	80	\$0	\$0	\$159	\$291	
GUATEMALA	\$62	\$22	\$5	\$30	\$20	\$248	298.329
BULGARIA	\$117	\$216	\$26	314	\$53	\$181	54,339
ECUADOR	\$6	30	\$50	\$0	\$10	\$127	2173,109
UKRAINE						\$121	
TUNISIA	\$0	51	90	51	90	8110	
VENEZUELA	380	\$274	3158	\$121		\$106	78.689
PANAMA	\$37	\$42	\$50	38	175	\$45	21.869
IRUGUAY	\$37 \$37	34Z	30	344	\$/5 \$36		
PAKISTAN	337 316	39 50		• • • •		\$36	4.349
	•	•	\$7	\$0	\$0	\$33	102.689
MACAO	\$0	30	\$0	\$2	\$0	318	
REP. OF SO. AFRICA	\$0	\$0	\$0	36	\$0	\$17	
COSTA RICA	\$0	\$0	\$0	\$5	\$0	\$15	
PERU	\$34	\$58	\$14	\$10	\$10	\$12	-63.97%
BURUNDI						\$12	
SWAZILAND	\$0	\$0	\$0	\$0	\$1	\$11	
EBANON	54	30	30	34	\$0	20	107.91%
BARBADOS						\$3	
ITHUANIA						13	
MOROCCO	\$0	\$0	\$0	<b>\$3</b>	\$43	<b>5</b>	
MALTA AND GOZO	\$14	\$6		\$0	\$0	#3	-81.43%
SURINAME	\$1 <b>-</b>	30	**	30	şu.		-01.437
						\$2	
CHILE	\$34	\$59	\$95	\$0	\$2	\$1	-95.761
FRENCH POLYNESIA						\$0	
CAYMAN ISLANDS	\$6	\$1	\$1	\$6	\$0		
ARUBA	\$0	\$0	\$0	\$13	\$0		
BAHAMAS	\$6	\$1	\$0	\$18	\$0		
MAURITIUS	\$0	\$0	\$37	\$3	30		
/UGOSLAVIA	\$26,962	\$24,942	\$25,699	\$12,980	\$102		
TRINIDAD AND TOBAGO	8451	\$73	\$69	\$0	\$0		
TONGA	\$0	31	\$0	\$0	30		
FOKELAU ISLANDS	\$0	\$0	80	80	\$29		
SRI LANKA	\$0	\$4	\$0	30	30		
SEYCHELLES	50	50 50	30	so	 u		
IAMAICA		90 97	50 50	\$0 \$0	an an		
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MONTSERRAT	\$0	\$0	30	\$0	\$5		
COCOS ISLANDS	\$0	\$0	\$0	\$0	\$82		
CYRGYZSTAN	\$0	30	\$0	<b>\$</b> 3	\$0		
ZAIRE	\$0	\$4	\$0	\$0	80		
KORDAN	\$0	80	\$0	\$0	\$2		
ANTIGUA	\$4	\$24	\$0	\$0	\$0		
HONDURAS	\$0	80	\$3	80	\$0		
GUYANA	90		80	50	\$0		
CHANA	<b>5</b> 2	90	** **	<b>20</b>	<b>50</b>		
DOMINICA	927 927	50 50	343	\$15	\$11		
			• •	•	\$11 \$0		
CZECHOSLOVAKIA	\$4,302	\$4,211	\$6,534	\$10,151			
NETHERLANDS ANTILLES	\$2	30	\$0	\$0	\$3		
_	*****	872,212	\$77,304	\$80,240	3103,294	\$111,303	66,267
GSP COUNTRIES	871,229						
GSP COUNTRIES Percent of Total:	\$71,229 13,98%	13,92%	15,26%	16.42%	18.26%	17.39%	

Source: U.S. Dept of Commerce, Bureau of Census. Excludes data for Items classified under HTS 7013.10 - Glass Ceremics.

March 7, 1995

The Honorable Philip M. Crane Chairman, Subcommittee on Trade Committee on Ways and Means U.S. House of Representatives 1102 Longworth House Office Building Washington, DC 20515

Dear Chairman Crane:

In response to the Trade Subcommittee's request for written comments on an extension of the U.S. Generalized System of Preferences (GSP), Mattel, Inc. wishes to express its strong support for legislation to renew the program beyond its July 31 expiration date. Mattel is the world's largest toy company, with sales in over 140 countries. Headquartered in El Segndo. California, our company has manufacturing, distribution or sales operations in four states and 34 foreign countries, including the GSP beneficiary countries of Malaysia and Indonesia.

Mattel strongly endorses a renewal of the GSP program. Even though U.S. most-favored-nation rates of duty on all traditional toy categories were eliminated on January 1 as a result of the Uruguay Round agreement, meaning that these products are now removed from GSP eligibility, Mattel continues to have a major stake in the program's continuation for the reasons outlined below.

First, renewal of the U.S. GSP program is important to Mattel because imports of several products in Mattel's line are classified outside the scope of the Uruguay Round tariff eliminations and remain eligible for GSP treatment. Examples of such products include our Fisher-Price nursery monitors (HTS 8527.90.80) and school and art supply sets (HTS 9610.00.00).

Second, the GSP schemes maintained by the European Union, Japan and all other industrialized countries continue to play an important role in Mattel's access to those markets. For example, even though it participated in the Uruguay Round's zero-for-zero tariff deal on toys, the European Union is taking ten years to phase out its tariffs on most toys and has completely exempted several important toy categories from duty eliminations.

There is little doubt that these other GSP donor countries would come under strong pressure to terminate their GSP programs if Congress fails to extend the U.S. program, particularly given the multilaterally-agreed principle that industrialized countries should share among each other the burden of extending GSP tariff preferences. This would pose a competitive disadvantage to Mattel and other major U.S. toy companies which, in keeping with their global leadership position in this sector, have better optimized their manufacturing structures to reflect cost of production advantages and, as a result, tend to source more heavily from GSP beneficiary countries.

Finally, we would like to take advantage of this opportunity to bring to the Trade Subcommittee's attention a customs-related matter that has impaired the ability of Mattel and other U.S. toy companies to take full advantage of the GSP program for certain products. In 1991, the U.S. Customs Service issued an interpretive rule (T.D.91-7) stating that articles entered as a set can only qualify for GSP treatment if each of the items or components in the set are of beneficiary country origin. given the prevalent use of sets in the toy sector, this ruling has posed a significant problem and has led to situations where toy sets having only de minimis non-beneficiary country input are denied GSP eligibility.

In conclusion, Mattel urges the Trade Subcommittee to support a long-term extension of the U.S. GSP program. We also urge the Subcommittee to take appropriate steps to ensure that, under the renewed program, GSP-eligible imports of toys in sets containing de minimis non-beneficiary content are accorded GSP treatment.

Sincerely,

Fermin Cuza
Vice President, International Trade
and Government Affairs

Elma Con

MBI, Inc.

47 Richards Avenue, Norwalk, Conn. 06857 (203) 853-2000

Danbury Mint Easten Press Postal Commemorative Society

March 21, 1995

The Honorable Phil Crame Chairman, House Committee on Ways and Means Subcommittee on Trade 1104 Longworth House Office Building Washington, D.C. 20515

#### Dear Congressman Crane:

I am writing to urge you to renew for at least five more years the Generalized System of Preferences (GSP) program before it expires on July 31, 1995.

The GSP program provides duty free treatment for certain goods from developing countries. It is based on the premise that trade, not aid, is the most effective means for promoting the economic growth of these countries. Pavorable duty treatment under the GSP program has allowed our company to provide products to our customers at a reasonable cost. The result is that our business has grown significantly over the last few years and we have been able to create many new jobs. Renewal of this new legislation will help us sustain this growth.

In your capacity as Chairman of the House Committee on Ways and Means, Subcommittee on Trade, I strongly urge you to find a way to renew this important program before it expires on July 31.

Sincerely,

Steve B. Gordon Vice-President



TRACY MULLIN President

March 10, 1995

The Honorable Bill Archer Chairman Ways and Means Committee U.S. House of Representatives 1104 Longworth Building Washington, D.C. 20515

Dear Mr. Chairman:

I am writing on behalf of the nation's retailers to express the strong support of our industry for the continuation of the Generalized System of Preferences (GSP) program. As you know, the GSP program's authority expires on July 31, 1995.

America's retailers sell many products that receive duty-free treatment under the GSP program. These items include electronics, computers, sports equipment, furniture, household goods and other important price-sensitive products. This program has allowed American consumers to enjoy high quality, imported goods at relatively low prices. It remains important for many products, despite the tariff reductions of the Uruguay Round and the incorporation of Mexico into the NAFTA.

Unfortunately, if the GSP program is not extended, these benefits will be lost. Prices for products would increase as our members are forced to pay duties on a host of products. American manufacturers that now use inputs imported duty-free under GSP would be equally disadvantaged.

In addition to offering significant benefits to U.S. consumers and workers, the GSP program also affords the U.S. an opportunity to support important foreign and trade policy goals. These include incentives for developing countries to protect intellectual property rights and workers' rights, and the eventual opening of new markets for U.S. goods and services.

The Federation also believes that the GSP program provides the most effective means for promoting the economic growth and development of developing countries. It has become increasingly difficult for the United States to provide the kinds of financial assistance that has promoted these goals in the past, and therefore a program like GSP is more important than

The World's Largest Retail Trade Association

Liberty Place, 325 7th Street NW, Suite 1000 Washington, DC 20004 202.783.7971 Fax: 202.737.2849 ever to fostering economic -- and consequently, political -- stability in important areas of the world.

While the Clinton administration has expressed support for a renewal of the GSP program, some Administration officials have expressed the view that the GSP program should be limited in scope to focus on least-developed countries, thus eliminating or reducing the participation of currently-eligible nations that may be stronger exporters. The Federation opposes any such limitations. Under the current program, the U.S. annually places "competitive need" limits on GSP shipments; once GSP beneficiaries become truly competitive in a product or product line, they no longer receive GSP benefits. Likewise, the U.S. has "graduated" entire countries from the GSP program -- most notably, Hong Kong, Singapore, South Korea and Taiwan -- when it is clear that low per capita income levels belie true competitiveness. Clearly, the current process provides sufficient review to ensure that only qualified countries participate.

Perhaps most crucial at this point is the need to renew GSP for at least five years before the program expires on July 31. The stop-and-start nature of the past two extensions has been highly disruptive to American companies using the program. Our members cannot plan with any confidence that GSP benefits will be available to them. Most of our members place their orders up to 18 months ahead of importation, and the on-again, off-again nature of the extension process so far has been costly. We therefore strongly urge the Committee to ensure that GSP is renewed before July 31.

By way of background, the Federation represents the entire spectrum of retailing, including the nation's leading department, chain, discount, specialty and independent stores, several dozen national retail associations and all 50 state retail associations. Our membership represents an industry that encompasses over 1.5 million retail establishments, employs over 20 million people --or 1 in 5 working Americans-- and registered sales in excess of \$2 trillion last year.

Thank you for your attention to this important matter. If you should need any further information, please contact me or Robert Hall, NRF's Vice President, Government Affairs Counsel at (202) 783-7971.

Sincerely,

Macy Mullin

## COMMITTEE ON WAYS AND MEANS SUBCOMMITTEE ON TRADE UNITED STATES HOUSE OF REPRESENTATIVES

## STATEMENT OF THE OFFICE OF THE CHEMICAL INDUSTRY TRADE ADVISOR (OCITA) ON

#### RENEWAL OF THE GENERALIZED SYSTEM OF PREFERENCES PROGRAM March 13, 1995

#### I. INTRODUCTION

The Office of the Chemical Industry Trade Advisor (OCITA) is pleased to submit this statement on the Generalized System of Preferences (GSP) program. OCITA believes that several changes must be made to assure that the GSP program operates efficiently, with a minimal impact on U.S. exporters. In particular, GSP beneficiaries should show that they have provided "equitable and reasonable" access to their markets for U.S. exports, by adopting such multilateral agreements as the Chemical Tariff Harmonization Agreement, before receiving GSP benefits.

OCITA is a coalition of seven national chemical trade associations: The Chemical Manufacturers Association (CMA), the Synthetic Organic Chemical Manufacturers Association (SOCMA), the Society of the Plastics Industry (SPI), the Fertilizer Institute (TFI), the National Paint and Coatings Association (NPCA), the Chemical Specialty Manufacturers Association (CSMA), and the American Crop Protection Association (ACPA).

OCITA's role is to provide a unique chemical industry perspective on trade policy issues affecting the chemical industry. The industry is the largest exporting sector in the United States. Chemical industry exports totaled \$51 billion in 1994, returning an \$18 billion trade surplus that year. U.S. chemical exports in 1994 outdistanced agricultural exports by \$5.6 billion, and bettered aircraft exports by \$2.2 billion. OCITA provides some 2,600 companies nationwide with a voice on trade policy issues, like the GSP program, that may affect their competitiveness in the global market.

In OCITA's view, Congress should consider several changes in the GSP program. The changes, detailed in this statement, should help assure that the program does not create a negative economic or competitive impact for U.S. industries.

The GSP program has been implemented to prevent economic harm to U.S. industrial interests, while affording some preferences to developing countries. Since the last time the CSP program was reauthorized in 1984, however, a number of problems have caused economic harm to U.S. interests. Most of these problems arise from the lack of specific criteria or sufficient guidelines for the program. For example, participation in the Chemical Tariff Harmonization Agreement (CTHA) negotiated in the Uruguay Round is not a condition for GSP eligibility. Enhanced enforcement of existing GSP law, administrative improvements in the operation of the program, and more explicit conditions for extending and eliminating GSP benefits will improve the program.

#### II. STATUTORY CONDITIONS ON GSP ELIGIBILITY

#### A. Participation in the Uruguay Round Agreements

In order to assure that eligible GSP beneficiaries provide the "equitable and reasonable" market access to U.S. exports required under existing law, the Office of the United States Trade Representative (USTR) should give significant weight to participation in the Uruguay Round Agreements. The failure of some GSP beneficiaries to offer reciprocal tariff benefits consistent with the CTHA adopted in the Round is of particular concern to the chemical industry.

U.S. chemical exporters have already expressed their frustration and disappointment over the inadequate tariff concessions made by major chemical producing countries which also benefit from the GSP program. Countries such as Argentina, Brazil, India, Indonesia, Malaysia, Thailand and Venezuela have not joined the CTHA. In OCITA's view, the failure to grant reciprocal tariff benefits violates Section 502(c)(4) of the GSP statute, as there can be no doubt that chemical exporters are not receiving "equitable and reasonable" market access.

OCITA urges the Subcommittee to consider the following amendment to the GSP statutes to address non-reciprocal chemical tariff concessions:

Section 504(a) of the Trade Act of 1974 (19 U.S.C. § 2464(A)) is amended by adding at the end thereof the following new paragraph:

(3) The President shall not apply duty-free treatment under section 501 with respect to any chemical article classified under chapters 28 through 39 of the Harmonized Tariff Schedule of the United States originating (as determined under section 503(b)) in a country which has not reduced and bound its tariff rates in a manner comparable to those agreed to by Canada, the European Union, Japan and the United States in the Uruguay Round of Multilateral Trade Negotiations.

In addition, the GSP statute should also be amended to include a country's adherence to the other Uruguay Round Agreements, particularly a country's adherence to the Agreement on Trade-Related Intellectual Property (TRIPs), as a criteria for GSP eligibility. These conditions can be added very simply to the existing conditions in the GSP statute.

#### B. Automatic Termination of GSP Eligibility

The GSP legislation should provide for automatic termination of GSP eligibility for any country entering into a free trade agreement with the United States. A free trade relationship is generally inconsistent with the preferences provided under the GSP program.

#### C. High Import Penetration Requirement

In listing the factors which the President must take into account in awarding GSP status, §2461 lists:

"(3) the anticipated impact of such action on United States producers or like or directly competitive products."

However, the TPSC and the International Trade Commission (ITC) hold such a rigid definition of what they consider injurious import penetration that due regard is not given to the anticipated impact of GSP status on key U.S. chemical industry segments.

Both the TPSC and the ITC refuse to recognize that with fungible commodity chemicals, even a 1% import penetration can bring down the entire price structure for a chemical throughout the entire U.S. market. Certainly, import penetration thresholds are important, but assuming low penetration is not injurious is not consistent with either the statute or reality.

Means must be found to assure that a more flexible definition of injurious import penetration will be used when considering requests to terminate duty-free GSP status on products of U.S. industry members.

#### D. Injury and Threat of Injury

There is no clear TPSC definition of injury or threat of injury. In fact, internally, there appears to be a view that the test is "significant injury or threat thereof". There should, therefore, be a set of clearly defined standards and criteria applied by both the ITC and the TPSC.

Where U.S. industry petitions to remove a product, or opposes adding a product, on grounds of injury or threatened injury, the ITC Commissioners should <u>be required</u> to prepare a brief opinion justifying their support or opposition to the petition. Currently, it is the ITC staff that prepares the assessments; review by the full Commission is entirely proforma.

#### E. "Basket" Decisions/Classification Considerations

While not the same problem that it was prior to adoption of the Harmonized Tariff System, there is evidence that the USTR and the TFSC still sometimes grant GSP status to multiple products, rather than just the specific product requested by a petitioning country. This problem is caused when many separate products are included under the same tariff category or "basket." This may result in products being considered eligible for GSP treatment, often without the knowledge of U.S. manufacturers. As a result, the domestic market for import sensitive products may be harmed. At a minimum, U.S. companies will incur unnecessary expenses in petitioning for the withdrawal of eligibility for those products.

Reauthorization of the CSP program should stipulate that benefits will be limited to the individual product for which a petition is filed.

Another concern is the inadvertent inclusion or exclusion of a specific product because of misclassification, reclassification (TSUS to HTS) or U.S. Customs Ruling. An expedited process outside the Annual Review process is needed for inadvertent exclusion problems.

#### F. Timeliness of Response to Concerns of U.S. Industry

There is need for more timely responses to the interests of domestic producers. Petitions are currently accepted once a year for extension or withdrawal of benefits. Petitions are accepted for review in June and actions on these petitions are taken as late as the following April. Because the competitive positions of entire industrial sectors can be affected in very short periods of time, it is critical that petitions receive timely responses.

The existing expedited pelition procedures are seldom, if ever, granted. The GSP program must have a useful emergency petition process to suspend or eliminate GSP benefits. The GSP rules should allow the petition of a domestic industry to be given immediate consideration by the USTR upon a showing of special need.

#### G. ITC Consideration of Most Recent Data Available

In a number of instances, the data developed by the ITC during its analysis of possible impact has been irrelevant, while other information which was pertinent to the case was disregarded. In other circumstances, the ITC has failed to consider the most recent data available. In part, the data problem is related to the timeliness of responses to petitions. However, with so much weight given to the ITC report and recommendation, an adequate and meaningful analysis, including all available data and recent changes, should be provided.

The reauthorization law and/or annual instructions to the ITC from USTR should include specific requirements for the ITC's use of data, and provide for opportunities for U.S. industry to challenge and suggest more appropriate data. USTR/TPSC should be open to requesting that the ITC review specific points even after their report has been submitted.

#### H. Competitive Need Limitations

Provisions are needed to allow special consideration for specific product(s) imports that <u>do not</u> exceed limitations, but comprise sufficient import penetration to injure U.S. industry.

#### I. Indications of Necessary Criteria to Withdraw Eligibility

There is still considerable confusion within the U.S. Government and the business community on whether individual products can be <u>selectively</u> removed for other than competitive need reasons. Many GSP practitioners believe that a request to remove a product entirely from the duty-free GSP program is more difficult than removal of the product from one or perhaps two GSP countries where the benefit is no longer necessary. The ability to selectively petition for withdrawal of CSP eligibility is necessary in order to prevent negative economic effects to U.S. industries.

Further, sometimes petitioners will (for the above reason) petition to have one or perhaps two major suppliers removed only to find that when the petition is accepted, the TPSC converted the petition to a total product removal.

Other helpful indications of necessary criteria for withdrawing product eligibility that USTR and the TPSC could provide U.S. industry include:

- (1) Import-Penetration-History, Current, Future (likely range)
- (2) Important injury factors (percent range, trends)
- (3) Threat factors (must imports have started, history, forecast, precedents, more emphasis on intent of law)

### III. THE GSP PROGRAM CAN BE MADE MORE EFFECTIVE BY BETTER APPLYING EXISTING LAW

#### A. Foreign Market Access and Export Practices of Beneficiaries

A significant purpose of the 1984 GSP Renewal Act was to encourage developing countries to eliminate or reduce significant barriers to trade. To fulfill this purpose, the Act listed the factors to be applied in designating GSP eligible countries. Among the most important of the eligibility criteria are the extent to which reasonable market access is provided, and unreasonable export practices are prevented.

It is the all-too common experience of OCITA companies that these factors are not adequately considered in the GSP Annual Review process. GSP status has been granted to countries such as Brazil and India, even in the light of evidence that they apply high tariffs, and other non-tariff barriers. These barriers severely restrain imports of chemicals for which they have requested GSP status from the United States. Furthermore, many GSP eligible countries have an elaborate collection of export subsidies and facilitating export practices. These market access and export practices need to be given significant weight in the TFSC deliberations, if the eligibility criteria is to be given any meaning at all. Simply, it is not clear that the U.S. government is complying with the statutory requirement that eligibility determinations <u>must</u> take into account the domestic impact of granting GSP treatment, and the degree to which market access is provided.

The public does not have access to the TPSC's internal decision making documents, but there are no indications that the law is being complied with. For example, seldom, if ever, do TPSC (or CSP Subcommittee) members even make inquiries at the public hearings or through other communications with U.S. industry relevant to "country practices".

TPSC enforcement of the law is particularly important where the petitioner has evidence that the same article produced in the United States is subject to such constraints as market access barriers, patent infringement, and domestic subsidiaries to competitive local producers in the GSP beneficiary country being considered for removal.

Additional changes are needed such that:

 GSP policy gives "great weight" to whether the product under review faces one or more of the conditions set forth in Section 2463 (c); (2) the TPSC should be required to provide U.S. industry seeking a removal of a product the reasons for adding or keeping the product on the list, including its assessment of factors identified above; and

(3) a legal opinion from USTR's General Counsel's office should be prepared and forwarded to all TPSC and GSP Subcommittee members explaining the law in this area.

#### B. Competitiveness Considerations

OCITA companies have found that the TPSC and the ITC do not give much, if any, consideration to the worldwide competitiveness of a particular GSP country's subject industry. As a result, foreign producers with world-scale plants, state-of-the art technology, worldwide exports, and substantial productive capability have been given duty-free access to U.S. markets. Graduation of industries (products(s)) within GSP eligible countries must be given more attention. The law requires that the President "shall have due regard" to the extent of the GSP country's competitiveness in any particular article, and measures should be taken to demonstrate compliance with the law.

It makes no sense to grant a preferential benefit to an industry that has already shown itself fully capable of competing in world markets, and consideration commensurate with the law on this factor must be included in future deliberations.

#### C. Coordinating Trade Policy Actions

There is clear evidence that decisions in the GSP program are not being coordinated with other trade policy activities of the U.S. government. For example, of the twelve chemical product petitions filed in the 1991 annual review, eight were on the USTR's list of import sensitive products in the Uruguay Round tariff negotiations. In another example, the ITC has ruled favorably in an anti-dumping case, only to have the GSP process soon thereafter grant GSP status to the same product.

The reauthorization law should contain provisions to automatically exclude from GSP eligibility products considered import sensitive, as well as other provisions to harmonize the GSP program with other trade decisions of the U.S. government.

In particular, rules concerning submission and marking of business confidential information should be harmonized among the relevant government agencies to simplify, expedite and ensure equal treatment be afforded by all of the agencies.

#### D. Duties of TPSC Members

GSP guidelines and instructions should be annually reviewed with <u>all</u> relevant government personnel to ensure consistency and fairness in analysis and recommendations. This is important because staff members change from year-to-year.

The TPSC members who are expected to rule impartially on GSP petitions are in some cases the same government representatives who visit foreign countries to promote the program. The reauthorization should delegate the responsibility for promoting the GSP program to others outside the TPSC.

The private sector should be advised at the beginning of the review process as to which particular inter-agency representative has been assigned to each petition. Similarly, the names of the TPSC members or designates should be made available to the private sector at the beginning of the annual process.

#### E. Sufficiency of Petitions

Accurate and complete information must be provided by petitioners to assure the timely consideration of GSP petitions. An important element of every petition should

be a full discussion of how the requested action would provide benefits to the developing countries without an adverse impact on affected U.S. industries.

#### IV. CONCLUSION AND POSITION

OCITA suggests that several statutory and administrative changes in the CSP program are necessary to assure that effective assistance to developing countries is provided with minimal negative impacts on U.S. industry. OCITA looks forward to working with the Trade Subcommittee as discussions on the future of the CSP program continue.



**Philips Electronics** 

March 13, 1995

Thomas B. Patton Vice President Covernment Relations

The Honorable Philip M. Crane Chairman, Subcommittee on Trade Committee on Ways and Means House of Representatives Washington, DC 20515

Dear Mr. Chairman:

In response to the Trade Subcommittee's request for written comments on an extension of the U.S. Generalized System of Preferences (GSP), Philips Electronics North America Corporation wishes to express its strong support for legislation to renew the program beyond its July 31 expiration date. Philips Electronics North America is a major U.S. manufacturer of a wide range of consumer electronics, electrical and electronic components, and professional equipment. In 1994, we had \$6.3 billion in sales and employed 25,000 U.S. workers.

Philips imports several articles under the U.S. GSP program, most of which serve as components for products manufactured by Philips in the United States. As a result, the GSP plays a crucial role in supporting the competitiveness of our U.S.-made products.

Television tuners, a product added to the GSP list in response to a petition filed by Philips in the annual GSP review process administered by the Office of the U.S. Trade Representative, are a prime example of this relationship. Because of the GSP program, Philips is able to import the tuners from its Indonesian affiliate free of duty, rather than paying the otherwise applicable 4.6 percent most-favored-nation duty.

The GSP duty savings on television tuners, which are not produced in the United States, contribute importantly to the competitiveness of the color televisions manufactured by Philips in Greeneville, Tennessee. Together with related operations in five states, these facilities and their over 8,000 U.S. workers represent the most extensive color television manufacturing operations in the United States.

In evaluating the importance to U.S. economic interests of maintaining GSP treatment for television tuners, it should also be noted that the color televisions manufactured by Philips in Tennessee comprise over 75 percent domestic content. This high level of U.S. content has been attained not only by conducting final assembly operations in the United States, but also by manufacturing domestically all of the televisions' major components, including the printed circuit board, chassis, picture tube and cabinet.

The other products imported by Philips under the GSP program range from VCRs, which are not manufactured in the United States, to glass and other components utilized in Philips' major U.S. electric light manufacturing facilities. Most of Philips' GSP imports are from Malaysia, Indonesia, Brazil and Hungary, and we strongly support a continuation of these countries' beneficiary status under a renewed GSP program.

In conclusion, Philips Electronics North America strongly supports legislation to renew the GSP program's statutory authority. We hope that you and other members of the Trade Subcommittee will not hesitate to contact us if you would like further information on the importance of the GSP program to our company.

Sincerel

## Shrieve Chemical Products, Inc. 1717 Woodstand Court The Woodlands, Texas 77340

(713) 367-4226

FAX 713 292-2014

March 7, 1995

The Honorable Philip M. Crane Chairman, Subcommittee on Trade U.S. House of Representatives 1102 Longworth House Office Building Washington, DC 20515

#### Dear Chairman Crane:

Pursuant to the Trade Subcommittee's request for written comments on an extension of the U.S. Generalized System of Preferences (GSP), Shrieve Chemical Products wishes to express its strong support for legislation to extend the program on a long-term basis. As outlined below, Shrieve is a good example of how the GSP program serves to strengthen U.S. manufacturing operations.

Headquartered in Houston, Texas, Shrieve is a processor of specialty oils sold primarily to manufacturers of refrigeration compressors. Shrieve imports the primary material, branched alkylbenzenes, from Indonesia and other developing countries free of duty under the GSP program. The availability of GSP treatment is critical to Shrieve given the high (roughly 18 percent) mostfavored-nation rate of duty applicable to this product.

These important cost savings realized by Shrieve through the GSP program are essential to the competitiveness of our final product, which has over half its value added through processing and other operations performed in the United States. In short, the GSP directly supports the jobs of all Shrieve workers, located in Texas, California, Utah and Florida, and employees at other U.S. processors supporting Shrieve's operations in Texas and elsewhere around the country.

At the same time, it is important to note that this GSP benefit to U.S. manufacturing interests has no negative side-effects. There is no U.S. production whatsoever of branched alkylbenzenes.

In conclusion, Shrieve strongly supports a long-term extension of the GSP program. Please let us know if the Trade Subcommittee would like any further background regarding our company's utilization of this important program.

Sincerely. Here Collman 1th

Steve Pohiman President

## STATEMENT OF RONALD L. PARRISH VICE PRESIDENT OF CORPORATE DEVELOPMENT TANDY CORP.

#### Opening Statement:

Thank you Mr. Chairman for allowing Tandy Corporation to testify on the appropriateness of reauthorizing the Generalized Systems of Preferences program.

#### Background Information on Tandy Corporation:

Tandy Corporation is one of America's largest retailers of consumer electronics products and personal computers. Tandy is, and has always been American owned and operated. Our U.S. retail sales during 1994 approached \$5 billion and our U.S. retail employment exceeds 40,000 persons.

Tandy is best known as the parent company of Radio Shack, with over 6,600 company owned and dealer operated stores throughout the United States. Each Radio Shack store stocks around 3,000 Stock Keeping Units, including many products not found in any other retail chain.

Tandy is also the parent of two of the fastest growing chains in American retailing history. Computer City Supercenters sell major brands of personal computers, software, peripherals and accessories in 69 stores in the U.S., Canada and Scandinavia. Computer City had retail sales exceeding \$1 billion in 1994, in its third year of existence. A newer chain, Incredible Universe, operates 9 consumer electronics and computer superstores averaging 185,000 square feet of selling space each. In addition to electronics and computers, Incredible Universe carries a very large selection of home appliances and music software.

#### Reauthorization of Generalized System of Preferences

Tandy has participated in GSP since its inception in 1976 and imports more than 150 consumer electronics products for Radio Shack, ranging from tape recorders, transceivers and toys from such developing countries as the Philippines, Malaysia, Thailand and Indonesia. On an annual basis, Tandy imports in excess of \$150 million worth of products which qualify for GSP. Our retail prices on these items are kept competitive due to the exclusion of duties resulting from the program.

As the committee is well aware, the GSP program has been extended by Congress each year since 1977, with authorization for extension coming later and later in recent years. With lead times between our buyer's determination to buy a product and its actual shipment extending up to 12 months. Tandy often finds itself making purchasing decisions without knowing if the program will be renewed. Specifically, if GSP expires on July 31, 1995, the exhouse to Tandy will be an estimated \$6 million. This cost will have to be passed on to consumers in the form of higher retail prices.

In addition, GSP has allowed Tandy to stock marginally priced products, where the duty itself determines if we can afford to stock the item. Some low priced electronic products may appear attractive to customers at \$19,05, but

they won't buy them at \$24.95; the increase reflecting the amount required to cover increased duties.

Vendors in these developing economies are able to compete with the giant electronics firms in developed countries only because their goods qualify for GSP. If the program is discontinued, many of these smaller vendors will simply go out of business as importers such as Tandy no longer find it feasible to purchase their goods. Also likely to end are investments made by manufacturers allocated for research, development and production which are essential for these developing nations to achieve market economies. The program's built-in graduation scale assures that only economies most in need are granted benefits. As Korea, Taiwan, Hong Kong and Singapore have graduated out of the program, countries like Mataysia, Thailand, and the Phillippines have increased exporting activity. GSP develops market economies and distributes technology such that one or two powerful countries do not possess undue control over production.

Finally, GSP affords the U.S. government with leverage in assuring that developing countries live up to international trade agreements. Enforcing intellectual property laws and assuring that countries maintain open markets is important to US economic interests.

Notwithstanding the historical importance to Tandy, it is the uncertainty of its renewal which causes us more problems than the preference itself. If Tandy knew for sure that the GSP program was going to be discontinued at some point in the future, we would make our plans accordingly. Preparations are currently underway to publish the 1996 Radio Shack catalog, which will feature the 150 products and their prices.

Should Congress determine that GSP must be ended, it is very important to our customers and stores that the authorization be continued at least through 1996, to allow time for us to make alternative merchandising decisions.

Tandy appreciates the opportunity to place its remarks favoring the extension of GSP in the Committee record. We will be pleased to assist the Committee in its further determination of this important subject.

United States House of Representatives Committee on Ways and Means Subcommittee on Trade

Hearings on the Proposals to Renew the Generalized System of Preferences

Statement in Support of a Long Term Extension of the Generalized System of Preferences Submitted on Behalf of Teksid, Inc.

March 13, 1995

#### Mr. Chairman:

Mr. Chairman and Members of the of the Subcommittee on Trade of the House Committee on Ways and Means. My name is Leslie Alan Glick, and I am a partner in the law firm of Porter, Wright, Morris & Arthur in Washington, D.C. I am submitting this statement today on behalf of my client Teksid, Inc., a corporation located in Farmington Hills, Michigan. Teksid has 19 full time employees located in Michigan. We respectfully request that this statement be included in the printed record of the hearing held on February 27, 1995. Teksid is engaged in the importation of certain aluminum cylinder heads from Brazil that are essential to its operations. Teksid strongly supports the long term continuation of the Generalized System of Preferences ("GSP") program past its current expiration date of July 31, 1995.

Teksid also manufactures aluminum cylinder heads in its plant in Tennessee and employs over 400 workers there. Thus Teksid, although an importer from Brazil, is also a U.S. producer and employer. In the case of aluminum cylinder heads the U.S. production cannot meet the demand as the auto industry is switching to more and more aluminum. Therefore, imports are essential to meet the needs of the U.S. automotive manufacturers themselves for these parts and the GSP program could help keep their costs down.

Teksid believes that the GSP program is beneficial to the U.S. as well as the developing countries that benefit from it. Brazil, particularly with its significant social and economic problems, needs to be continued on the GSP program. It would be a grave mistake to eliminate Brazil and some of the larger GSP beneficiary countries in the misguided effort to give more benefits to smaller countries. Most smaller countries are already receiving duty free benefits in the U.S. through various regional preference programs such as the Caribbean Basin Initiative, that covers most of the Caribbean and Central American countries, and the Andean Trade Preference Act that covers the Andean countries. Mexico, a significant competitor of Brazil recently received special preferences under the North American Free Trade Agreement that go beyond those previously available under the Generalized System of Preferences.

If Brazil is to maintain its already fragile position in the world economy, it cannot afford to lose the benefits of the Generalized System of Preferences. Brazil has very high unemployment and underemployment. Inflation in 1993 was 1,592% up from 1,149% in 1992. The World Bank estimate for 1994 inflation is 1,048%. Brazil has had a decline in real growth of Gross Domestic Product in two out the past five years. Former Brazilian President Jose Sarney was quoted in the <a href="Wall Street Journal">Wall Street Journal</a> to the effect that "The national crisis has exceeded all limits. It requires heroic decisions." <a href="(Wall Street Journal">(Wall Street Journal</a>) October 28, 1993 at A81.

The GSP program is a market based incentive to trade and development of beneficiary countries. The impact on Brazil of the recent emerging market financial instability which began with Mexico's devaluation crisis last December underscores the importance of GSP to continued growth and stability in Brazil. Long term renewal of the GSP program would contribute to stability and predictability, which are important for business planning, both in the beneficiary countries and in the United States. Although, it was of course better than no extension at all, the recent one year extensions of the program - along with gaps during which the program had expired - caused significant uncertainties and disruptions in the market. For example, it is very expensive for U.S. companies such as Teksid to post cash payments to

cover import duties when the program temporarily expires. Long term extension will eliminate such situations.

In view of these facts, we strongly urge you both to renew the GSP program long term, without significant changes, and particularly to continue the state of Brazil as a GSP eligible country. One additional comment we wish to submit concerns the so-called "3 year rule." Current USTR practice does not allow resubmission of a product addition submission if it has been accepted for review and then denied after a full review (hearings, briefs, etc.). If this regulation is codified into law it should be careful to continue the same policy of applying the 3 year exclusion policy only to products that have been accepted for review, given full consideration on the merits, and then rejected. Products that have petitioned for review but not been accepted for consideration (e.g., because the information was incomplete) should not be barred from applying the next year.

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No. 0204(W)/ 402

March 9, 1995

The Honorable Philip M. Crane Chairman, Subcommittee on Trade Committee on Ways and Means U.S. House of Representatives 1102 Longworth House Office Building Washington, D.C. 20515

#### Dear Chairman Crane:

Pursuant to the Trade Subcommittee's request for written comments on an extension of the U.S. Generalized System of Preferences (GSP), we are pleased to submit the views of the Government of Thailand regarding this important program.

The U.S. GSP program has played an important role in helping Thailand diversify and expand its exports to the U.S. market. This is an important objective for our country, since export earnings constitute Thailand's primary source of investment and financing for needed imports of foods and other basic commodities. Also, without the GSP's tariff'preferences, many Thai infant industries unable to maintain their price competitiveness could be forced out of the U.S. market altogether.

While the standard of living in Thailand continues to make modest improvement, most Thai people are still poor. Approximately 85 percent of our population resides in rural areas relying on the agriculture sector.

For these reasons, the Thai Government strongly urges the Trade Subcommittee to approve legislation authorizing an extension of the GSP program beyond its current expiration date of July 31. Of particular importance to our Government is that this reauthorization be on a long term basis, preferably for the 10-year period employed originally by the United States and other GSP donor countries.

Short-term extensions of the type enacted by Congress over the past two years undermine the GSP's effectiveness in furthering its developmental objectives. Importers, unsure of whether GSP-eligible products from Thailand and other beneficiaries will still be eligible for tariff preferences the following year, tend to discount the importance of GSP benefits in there sourcing decisions and become more likely to source from more developed non-beneficiary competitors.

Through the years, Thailand has been a major beneficiary under the U.S. GSP program. With the U.S. government's removal of the program's leading beneficiaries in recent years, Thailand has moved up to become the second largest beneficiary, with duty-free GSP exports of approximately \$2.5 billion in 1994.

In evaluating this performance, however, it is important to recognize that Thailand's share of the U.S imports of GSP-eligible products remains only 1.5 percent. In fact, industrialized and other countries ineligible for GSP benefits accounted for 89 percent of total U.S. imports of products on the GSP list during the first ten months of last year, well above the 76 percent share they recorded during the program's first year of operation nearly twenty years ago.

Finally, we wish to note that the Office of the U.S. Trade Representative is currently conducting a review to consider lifting certain GSP restrictions imposed on Thailand in 1989. The restrictions were the result of a determination under the GSP statute at that time that Thailand was not providing adequate protection of intellectual property rights. Since then, Thailand has taken major additional steps to afford strong IPR protection, as reflected by the Trade Representative's decision to launch the ongoing review.

We appreciate the opportunity to present these remarks for the Trade Subcommittee's consideration, and want to assure you of our best wishes in your important endeavor.

Yours sincerely,

M.R. Nabthong Thongyai Minister (Commercial)

NTH:nl